AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



FEDERAL REGISTER

Vol. 77 Wednesday,
No. 114 June 13, 2012

Pages 35241–35616

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, July 10, 2012
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 77, No. 114

Wednesday, June 13, 2012

Agency for Healthcare Research and Quality
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35396–35402

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35351

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 35365–35366

Animal and Plant Health Inspection Service
RULES
Chronic Wasting Disease Herd Certification Program and Interstate Movement of Farmed or Captive Deer, Elk, and Moose, 35542–35571

Bonneville Power Administration
NOTICES
Records of Decisions:
Albany–Eugene Transmission Line Rebuild Project, 35366

Bureau of Consumer Financial Protection
NOTICES
Privacy Act; Systems of Records, 35359–35361

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35402–35406

Coast Guard
RULES
Safety Zones:
Fireworks Display, Lake Superior; Cornucopia, WI, 35268–35271
NOAA Vessel Rueben Lasker Launch, Marinette, WI, 35271–35273
Special Local Regulation for Marine Events:
Chesapeake Bay Workboat Race, Back River, Messick Point; Poquoson, VA, 35266–35268
Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters, 35268
PROPOSED RULES
Special Local Regulations for Marine Events:
Wrightsville Channel, Wrightsville Beach, NC, 35321–35323

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
RULES
Alternatives to the Use of External Credit Ratings in OCC Regulations, 35253–35259
Guidance on Due Diligence Requirements in Determining whether Securities are Eligible for Investment, 35259–35263

Defense Department
See Air Force Department
NOTICES
36(b)(1) Arms Sales, 35362–35365

Energy Department
See Bonneville Power Administration
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
PROPOSED RULES
Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment:
Energy Conservation Standards for Residential Water Heaters, 35299–35304
NOTICES
Proposed Subsequent Arrangements, 35366

Energy Efficiency and Renewable Energy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35366–35367

Environmental Protection Agency
RULES
Approval and Promulgation of Implementation Plans:
Arizona; Update to Stage II Gasoline Vapor Recovery Program; Change in the Definition of Gasoline to Exclude E85, 35279–35285
New Mexico; Minor New Source Review Preconstruction Permitting Rule for Cotton Gins, 35273–35279
Approval of Air Quality Implementation Plan:
Arizona; Attainment Plan for 1997 8-hour Ozone Standard, 35285–35287
Approvals and Promulgations of Air Quality Implementation Plans:
Virginia; Regional Haze State Implementation Plan, 35287–35291
Exemptions from Requirements of Tolerances:
Killed, Nonviable Streptomyces acidiscabies Strain RL–110T, 35291–35295
Pesticide Tolerances:
Methyl bromide, 35295–35298
PROPOSED RULES
Approval and Promulgation of Implementation Plans:
New Mexico; Minor New Source Review Preconstruction Permitting Rule for Cotton Gins, 35326–35327
Revisions to California State Implementation Plan:
San Joaquin Valley Unified Air Pollution Control District, 35327–35331
Significant New Use Rules:
Trichoderma reesei, 35331–35336
NOTICES
Requests to Voluntarily Cancel Certain Pesticide Registrations, 35379–35383

Executive Office of the President
See Presidential Documents

Export–Import Bank
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Exporter's Certificate for Loan Guarantee and MT Insurance Programs, 35383–35384

Farm Credit System Insurance Corporation
NOTICES
Meetings:
Farm Credit System Insurance Corporation Board, 35384

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Bell Helicopter Textron, Inc. Helicopters, 35306–35308
Costruzioni Aeronautiche Tecnam srl Airplanes, 35304–35306
Amendment of Restricted Area R–6601:
Fort A.P. Hill, VA, 35308–35310

Federal Communications Commission
PROPOSED RULES
Privacy and Security of Information Stored on Mobile Communications Devices, 35336–35338

Federal Deposit Insurance Corporation
NOTICES
Terminations of Receivership:
Bramble Savings Bank, Milford, OH, 35384

Federal Energy Regulatory Commission
NOTICES
Applications:
Inside Passage Electric Cooperative, 35368–35369
Silt Water Conservancy District, 35367–35370
Combined Filings, 35370–35371
Environmental Site Reviews, Scoping Meetings; Cancellations:
Qualified Hydro 24, LLC, 35371–35372
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:
Big Savage, LLC, 35376
Duke Energy Beckjord, LLC, 35374
Duke Energy Conesville, LLC, 35374
Duke Energy Dicks Creek, LLC, 35373–35374
Duke Energy Killen, LLC, 35376
Duke Energy Miami Fort, LLC, 35375–35376
Duke Energy Piketon, LLC, 35372
Duke Energy Stuart, LLC, 35375
Duke Energy Zimmer, LLC, 35372
EverPower Commercial Services LLC, 35372–35373
Independence Electricity, 35374–35375
Pacific Wind Lessee, LLC, 35373
Petitions for Declaratory Orders:
San Antonio Water System, 35376–35377
Preliminary Permit Applications:
Dolores Water Conservancy District, 35377–35378
Records Governing Off-the-Record Communications, 35378–35379

Federal Maritime Commission
NOTICES
Agreements Filed, 35384
Ocean Transportation Intermediary Licenses; Applicants, 35384–35385
Ocean Transportation Intermediary Licenses; Revocations, 35386

Federal Railroad Administration
NOTICES
Funding Availabilities; Solicitations of Applications:
Pilot Project Grants in Support of Railroad Safety Risk Reduction Programs, 35466–35471
National Environmental Policy Act Implementation, 35471–35473

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of Bank or Bank Holding Company, 35386
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 35386
Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies, 35386–35387
Proposals to Engage in or to Acquire Companies Engaged in Permissible Nonbanking Activities, 35387

Federal Trade Commission
NOTICES
Grantings of Requests for Early Terminations of Waiting Periods under Premerger Notification Rules, 35387–35389
Proposed Consent Agreements:
EPN, Inc.; Analysis of Proposed Consent Order to Aid Public Comment, 35389–35391
Franklin Budget Car Sales, Inc.; Analysis of Proposed Consent Order to Aid Public Comment, 35391–35393

Fish and Wildlife Service
RULES
Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations, 35482–35540

Food and Drug Administration
PROPOSED RULES
Filing of Food Additive Petitions:
Gruma Corp., Spina Bifida Association, March of Dimes Foundation, American Academy of Pediatrics, Royal DSM N.V., and National Council of La Raza, 35317

Forest Service
RULES
Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations, 35482–35540
PROPOSED RULES
National Environmental Policy Act:
Categorical Exclusions for Soil and Water Restoration Activities, 35323–35326

General Services Administration
NOTICES
Redesignations of Federal Buildings, 35393

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

PROPOSED RULES
World Trade Center Health Program:
Addition of Certain Types of Cancer to List of WTC-Related Health Conditions, 35574–35615
NOTICES
Biennial Progress Reports; Availability:
Interagency Coordinating Committee on Validation of Alternative Methods, 35393–35394
Draft Five-Year Plans:
National Toxicology Program Interagency Center for Evaluation of Alternative Toxicological Methods, etc., 35395–35396

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35406–35407

Healthcare Research and Quality Agency
See Agency for Healthcare Research and Quality

Homeland Security Department
See Coast Guard
See Transportation Security Administration
See U.S. Citizenship and Immigration Services

Industry and Security Bureau
PROPOSED RULES
Export Administration Regulations:
Military Training Equipment and Related Items the President Determines No Longer Warrant Control, etc., 35310–35317
NOTICES
Orders Denying Export Privileges:
Mohammad Reza Vaghari, a/k/a Mitch Vaghari; Saamen Co., LLC, 35351–35353

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
NOTICES
Meetings:
Wildland Fire Executive Council, 35420

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35475–35480

International Trade Administration
NOTICES
Biotech Life Sciences Trade Mission to Australia, 35353–35355
User Fee Schedule for Trade Promotion Services, 35355–35357

International Trade Commission
NOTICES
Antidumping and Counterveiling Duty Investigations; Results, Extensions, Amendments, etc.:
Crystalline Silicon Photovoltaic Cells and Modules from China, 35425–35426
Investigations:
Certain Automotive GPS Navigation Systems, Components Thereof, and Products Containing Same, etc., 35428–35429
Certain Mobile Devices, Associated Software, and Components Thereof; Termination, etc., 35427–35428
Certain Radio Frequency Integrated Circuits and Devices Containing Same, 35426–35427
Meetings; Sunshine Act, 35429–35430

Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35420–35422
Filings of Plats of Surveys:
Montana, 35423
Wyoming, 35422
Records of Decisions:
Ocotillo Express LLC Ocotillo Wind Energy Facility and Associated California Desert Conservation Area Plan Amendment, Imperial County, CA, 35423–35424

National Archives and Records Administration
NOTICES
Meetings:
Advisory Committee on Records of Congress, 35430

National Highway Traffic Safety Administration
PROPOSED RULES
Schedule of Fees Authorized, 35338–35343
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 35473–35475

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Clinical Mythteries; A Video Game About Clinical Trials, 35407–35408
Opinions and Perspectives about Current Blood Donation Policy for Men Who Have Sex with Men, 35408–35410
Process Evaluation of Early Independence Award Program, 35408
Fogarty International Center 2013 Strategic Plan, 35410
Meetings:
Center for Scientific Review, 35413–35418
National Cancer Institute, 35414
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 35416–35417
National Institute of Diabetes and Digestive and Kidney Diseases, 35415
National Institute of General Medical Sciences, 35413
National Institute of Mental Health, 35411–35412, 35414–35415
National Institute on Drug Abuse, 35411, 35418

National Oceanic and Atmospheric Administration
PROPOSED RULES
Confidentiality of Information; Magnuson–Stevens Fishery Conservation and Management Reauthorization Act, 35349–35350
NOTICES
Atlantic Highly Migratory Species:
Commercial Atlantic Region Non-Sandbar Large Coastal Shark Fishery Opening Date, 35357–35358
Fisheries of the South Atlantic; Southeast Data, Assessment, and Review:
Gulf of Mexico and South Atlantic Spanish Mackerel (Scomberomorus maculatus) and Cobia (Rachycentron canadum), 35358–35359
Meetings:
New England Fishery Management Council, 35359

North Pacific Fishery Management Council, 35359

National Park Service
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 35424–35425

National Science Foundation
NOTICES
Meetings; Sunshine Act, 35430–35431
Permit Applications, 35431

Nuclear Regulatory Commission
NOTICES
Alternative Uranium Milling Standards:
Final Alternative Soils Standards for Uravan, CO, Uranium Mill, 35431–35432

Postal Service
NOTICES
Privacy Act; Computer Matching Program, 35432–35437

Presidential Documents
ADMINISTRATIVE ORDERS
Federal Student Loan Borrowers; Improving Repayment Options (Memorandum of June 7, 2012), 35241–35243

Rural Utilities Service
RULES
Substantially Underserved Trust Areas, 35245–35253

Securities and Exchange Commission
RULES
Political Contributions by Certain Investment Advisers:
Ban on Third-Party Solicitation; Extension of Compliance Date, 35263–35264
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 35446–35448
Chicago Board Options Exchange, Inc., 35448–35450
EDGA Exchange, Inc., 35443–35444, 35450–35453
EDGX Exchange, Inc., 35439–35442, 35453–35455
Financial Industry Regulatory Authority, Inc., 35457–35462
ICE Clear Credit LLC, 35462–35464
New York Stock Exchange LLC, 35455–35457
NYSE Amex LLC, 35444–35446
NYSE MKT LLC, 35437–35439

Social Security Administration
RULES
Extension of Expiration Dates for Several Body System Listings, 35264–35266
NOTICES
Modifications to Disability Determination Procedures:
Extension of Testing of Some Disability Redesign Features, 35464

State Department
PROPOSED RULES
International Traffic in Arms Regulations:
Revision of U.S. Munitions List Category IX, 35317–35321

Surface Transportation Board
NOTICES
Control Exemptions:
Genesee and Wyoming Inc., Columbus and Chattahoochee Railroad, Inc.; Continuance, 35475

Susquehanna River Basin Commission
NOTICES
Proposed Low Flow Protection Policy, 35464

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
See Transportation Security Administration
NOTICES
Meetings:
Advisory Committee for Aviation Consumer Protection, 35465–35466

Transportation Security Administration
PROPOSED RULES
Provisions for Fees:
Hazardous Materials Endorsements and Transportation Worker Identification Credentials, 35343–35349

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See United States Mint

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Waiver of Foreign Residence Requirement of Section 212(e) of Immigration and Nationality Act, 35419–35420
Application for Waiver of Grounds of Inadmissibility; Correction, 35419
Biographic Information, 35418–35419

United States Mint
NOTICES
Meetings:
Citizens Coinage Advisory Committee, 35480

Separate Parts In This Issue

Part II
Agriculture Department, Forest Service, 35482–35540
Interior Department, Fish and Wildlife Service, 35482–35540

Part III
Agriculture Department, Animal and Plant Health Inspection Service, 35542–35571

Part IV
Health and Human Services Department, 35574–35615

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Memorandums:

Memorandum of June 7, 2012 35241

7 CFR

1700 35245

9 CFR

55 35542

81 35542

10 CFR

Proposed Rules:

430 35299

12 CFR

1 (2 documents) 35253, 35259

5 35253

16 35253

28 35253

160 (2 documents) 35253, 35259

14 CFR

Proposed Rules:

39 (2 documents) 35304, 35306

73 35308

15 CFR

Proposed Rules:

742 35310

774 35310

17 CFR

275 35263

20 CFR

404 35264

21 CFR

Proposed Rules:

172 35317

22 CFR

Proposed Rules:

121 35317

33 CFR

100 35266

151 35268

165 (2 documents) 35268, 35271

Proposed Rules:

100 35321

36 CFR

242 35482

Proposed Rules:

220 35323

40 CFR

52 (4 documents) 35273, 35279, 35285, 35287

180 (2 documents) 35291, 35295

Proposed Rules:

52 (3 documents) 35326, 35327, 35329

725 35331

42 CFR

Proposed Rules:

88 35574

46 CFR

162 35268

47 CFR

Proposed Rules:

64 35336

49 CFR

Proposed Rules:

594 35338

1572 35343

50 CFR

100 35482

Proposed Rules:

600 35349

Federal Register
Vol. 77, No. 114
Wednesday, June 13, 2012

Presidential Documents

Memorandum of June 7, 2012

Improving Repayment Options for Federal Student Loan Borrowers

Memorandum for the Secretary of Education [and] the Secretary of the Treasury

More individuals than ever before are using student loans to finance college. Nearly two-thirds of college graduates borrow to pay for college, with an average debt upon graduation of about $26,300. While a college education remains an excellent investment, this debt can be overly burdensome, especially for recent graduates during the first few years of their careers.

The Income-Based Repayment (IBR) plan for Federal student loans currently allows former students to cap their student loan payments at 15 percent of their current discretionary income. This plan can be an effective tool for helping individuals to manage their debt, especially during challenging economic times.

Over the past several years, my Administration has worked to improve repayment options available to borrowers, including through passage of an enhanced Income-Based Repayment plan, which will cap a Federal student loan borrower's monthly payments at 10 percent of his or her discretionary income starting in 2014. And we are pursuing administrative action that may extend these lower payments to some students as soon as the end of this calendar year.

However, too few borrowers are aware of the options available to them to help manage their student loan debt, including reducing their monthly payment through IBR. Additionally, too many borrowers have had difficulties navigating and completing the IBR application process once they have started it.

For many borrowers, the most significant challenge in completing the IBR application has been the income-verification process, which, until recently, required borrowers to provide a signed copy of their income tax return. Although the Department of Education has recently removed some of the hurdles to completing the process, too many borrowers are still struggling to access this important repayment option due to difficulty in applying.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. *Streamlined Application Process for Income-Based Repayment Plans.* By September 30, 2012, the Secretary of Education, in coordination with the Commissioner of Internal Revenue, shall create a streamlined online application process for IBR that allows student loan borrowers with federally held loans to import their Internal Revenue Service income data directly into the IBR application. This process will allow income information to be seamlessly transmitted so that borrowers can complete the application at one sitting. Federal direct student loan borrowers shall no longer be required to contact their loan servicer as the first step to apply.

Sec. 2. *Integrated Online and Mobile Resources for Loan Repayment Options and Debt Management.* By July 15, 2012, the Secretary of Education shall:

(a) create integrated online and mobile resources for students and former students to use in learning about Federal student aid, including an explanation of (1) the current IBR plan, which allows student loan borrowers

to cap their monthly loan payments at 15 percent of their discretionary income and be eligible to have their remaining loan balances forgiven after 25 years of responsible payments; and (2) the proposed Pay As You Earn plan, which will allow many students to cap their monthly loan repayments at 10 percent of their discretionary income and be eligible for loan forgiveness after 20 years of responsible repayment; and

(b) develop and make available to borrowers an online tool to help students make better financial decisions, including understanding their loan debt and its impact on their everyday lives. This tool should incorporate key elements of best practices in financial literacy and link to students' actual Federal loan data to help them understand their individual circumstances and options for repayment.

Sec. 3. *Improved Notification of the Income-Based Repayment Plan.* The Secretary of Education shall instruct Federal direct student loan servicers to make borrowers aware of the option to participate in IBR before a student leaves school and upon entering repayment. Within 1 year of the date of this memorandum, the Department of Education shall make available, for institutions of higher education, a model exit counseling module that will enable students to understand their repayment options before leaving school and to choose a repayment plan for their student loans that best meets their needs.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Education is hereby authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, June 7, 2012.

[FR Doc. 2012–14537
Filed 6–12–12; 8:45 am]
Billing code 4000–01–P

Rules and Regulations

Federal Register
Vol. 77, No. 114
Wednesday, June 13, 2012

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1700

RIN 0572–AC23

Substantially Underserved Trust Areas (SUTA)

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is issuing regulations related to loans and grants to finance the construction, acquisition, or improvement of infrastructure projects in Substantially Underserved Trust Areas (SUTA). The intent is to implement Section 306F of the Rural Electrification Act by providing the process by which eligible applicants may apply for funding by the agency.

DATES: *Effective:* July 13, 2012.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 1522, Room 5162–S, Washington, DC 20250–1522. Telephone number: (202) 690–1078, Facsimile: (202) 720–8435.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Rural Development has determined that this rule meets the applicable standards provided in section 3 of that Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to the rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). RUS provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The information collection and recordkeeping requirements contained in this rule are pending approval by OMB and will be assigned OMB control number 0572–0147 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Catalog of Federal Domestic Assistance

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under number 10.759, Special Evaluation Assistance for Rural Communities and Households Program (SEARCH); 10.760, Water and Waste Disposal Systems for Rural Communities; 10.761, Technical Assistance and Training Grants; 10.762, Solid Waste Management Grants; 10.763, Emergency Community Water Assistance Grants; 10.770, Water and Waste Disposal Loans and Grants (Section 306C); 10.850; Rural Electrification Loans and Loan Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees, 10.855, Distance Learning and Telemedicine Loans and Grants; 10.857, State Bulk Fuel Revolving Fund Grants, 10.859, Assistance to High Energy Cost Rural Communities; 10.861, Public Television Station Digital Transition Grant Program; 10.862, Household Water Well System Grant Program 10.863, Community Connect Grant Program; 10.864, Grant Program to Establish a Fund for Financing Water and Wastewater Projects; 10.886, Rural Broadband Access Loans and Loan Guarantees.

The Catalog is available on the Internet at *http://www.cfda.gov.*

Executive Order 12372

Most programs covered by this rulemaking are excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034). However, the Water and Waste Disposal Loan Program, CFDA number 10.770, is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act of 1995.

National Environmental Policy Act Certification

Rural Development has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the

national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175

The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian tribal, Alaska native, or native Hawaiian governments and sovereign institutions or have tribal implications that preempt tribal law. Prior to development of this rulemaking, the agency held Tribal Consultations at seven (7) USDA regional consultations, conducted sixteen (16) SUTA specific consultations and hosted three (3) Internet and toll free teleconference based webinars in order to determine the impact of this rule on Tribal governments, communities, and individuals. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration, the annual SUTA Report to Congress and were used extensively throughout the drafting of this proposed rule.

Background

USDA Rural Development (Rural Development) is a mission area within the U.S. Department of Agriculture comprising the Rural Housing Service, Rural Business/Cooperative Service and Rural Utilities Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants and technical assistance through more than forty programs aimed at creating and improving housing, businesses and infrastructure throughout rural America.

Rural Utilities Service (RUS) loan, loan guarantee and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecom and broadband infrastructure, RUS also plays a big role in improving other measures of quality of life in rural America, including public health and safety, environmental protection, conservation, and cultural and historic preservation.

The 2008 Farm Bill (Pub. L. 110–246, codified at 7 U.S.C. 936f) authorized the Substantially Underserved Trust Area (SUTA) initiative. The SUTA initiative gives the Secretary of Agriculture certain discretionary authorities relating to financial assistance terms and conditions that can enhance infrastructure financing options in areas that are underserved by electric, water and waste, and telecommunications and broadband utilities. Given the challenges, dynamics, and opportunities in implementing the SUTA initiative, RUS has aimed to foster a process that includes the voices of tribal leaders, tribal community members, Alaska Native Regional and Village Corporations, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, and other stakeholders.

Preliminary research by RUS identified various reports that provided several insights. In 2007, the United States Census Bureau Facts for Features article (dated 10/29/07) reported that the poverty rate of people who reported being sole race American Indian and Alaska Native (AI/AN) was 27 percent. Additionally, in 2006, the United States Government Accountability Office reported that based on the 2000 decennial census, the telephone subscribership rate for Native American households on tribal lands was substantially below the national level of about 98 percent. Specifically, about 69 percent of Native American households on tribal lands in the lower 48 states and about 87 percent in Alaska Native villages had telephone service. Additionally, in 2000, the United States Census Bureau reported that on Native American lands, 11.7 percent of residents lack complete plumbing facilities, compared to 1.2 percent of the general U.S. population.

There are special considerations and challenges in implementing an initiative to communities residing on trust lands. Many American Indians, Alaska Natives, Native Hawaiians, and Pacific Islanders have a deep spiritual, cultural, and historical relationship with the land. In certain circumstances, the objectives of economic and infrastructure development can be at odds with spiritual, cultural, historical, and environmental values. Additionally, there are special legal considerations inherent in financing projects in areas where the land itself cannot be used as security.

The SUTA initiative identifies the need to improve utility service and seeks to improve the availability of RUS programs to reach communities within trust areas when communities are determined by the Secretary of Agriculture (such authority has been delegated to the Administrator of RUS) to be substantially underserved. The RUS programs that are affected by this provision include: Rural Electrification Loans and Guaranteed Loans, and High Cost Energy Grants; Water and Waste Disposal Loans, Guaranteed Loans and Grants; Telecommunications Infrastructure Loans and Guaranteed Loans; Distance Learning and Telemedicine Loans and Grants; and Broadband Loans and Guaranteed Loans.

In addition to its discretionary authority to implement the SUTA provisions, RUS is under a continuing obligation to make annual reports to Congress on (a) the progress of the SUTA initiative, and (b) recommendations for any regulatory or legislative changes that would be appropriate to improve services to communities located in substantially underserved trust areas. RUS has submitted three reports to Congress, dated June 18, 2009, June 21, 2010, and August 23, 2011.

The USDA Office of Native American Programs (since renamed the Office of Tribal Relations, hereinafter OTR) and RUS began exploring SUTA initiative implementation in 2008 after passage of the Farm Bill. RUS in conjunction with OTR interpreted implementation to include formal USDA Tribal Consultations and working with stakeholders that are federally recognized tribes. Pursuant to this determination and in accordance with President Obama's November 5, 2009, Memorandum on Tribal Consultation, RUS conducted sixteen (16) direct tribal consultations, seven (7) regional consultations, one listening session and three (3) Internet and toll free teleconference based webinars on implementation of the SUTA provision with Indian tribes from across the country. Additionally, the agency heard from six Federal agencies at three separate consultations on how best to implement the SUTA provision.

Federal agencies that were consulted include: The Department of the Interior, as the primary Federal agency with many direct responsibilities to Native American and Pacific Islander stakeholders; the Department of Veterans Affairs, for its clarification of the definition of ''trust land''; the Environmental Protection Agency, because it has information regarding underserved trust areas with environmental challenges; the Department of Energy, because it has an interest in promoting energy development and conservation in trust areas; the Department of Commerce and the Federal Communications Commission, because each agency has an interest in telecommunications service in trust areas; the Department of Health and Human Services, because it has a long standing interest in providing health care services and promoting the

adoption of health IT in native communities; and the Office of Management and Budget.

As a result of categorizing and analyzing the comments received through tribal consultations and filed comments, RUS was able to identify certain issues that impact both the underserved communities that seek better access to RUS programs, and the federal agencies that have similar yet sometimes competing interests in trust areas. This regulation is informed by the insight gained through consultations and comments, and is designed to complement existing loan, grant, and combination loan and grant programs with the SUTA provisions that authorize the Administrator to apply certain discretionary authorities (2 percent interest and extended repayment terms; waivers of nonduplication restrictions, matching fund requirements, or credit support requirements; and highest funding priority) for the benefit of eligible communities, and the entities that serve them, in underserved Trust areas.

Discussion of Proposed Rule and Comments Received

In its Proposed Rule, published in the **Federal Register** October 14, 2011, (76 FR 63846), the agency requested comments regarding implementing the Substantially Underserved Trust Areas provision of the 2008 Farm Bill. The agency received nine comments from the following organization/individuals:

- Society of American Indian Government Employees
- Lalamilo Community Association
- NANA Regional Corporation
- Winnebago Tribe of Nebraska
- WAIMEA Hawaiian Homesteaders Assoc., Inc.
- State of Hawaii, Department of Hawaiian Home Lands
- Council for Native Hawaiian Advancement
- National Tribal Telecommunications Association
- Cheyenne River Sioux Tribe

These comments have been summarized and are addressed below:

Society of American Indian Government Employees

The Society expressed support and appreciation for the hard work performed by the RUS staff. The Society recommended that the agency (1) affirmatively proclaim that all land (including all ''fee land'') within tribal reservation boundaries to be qualified as trust lands for the SUTA provision, (2) designate the data requirements under § 1700.107 as burdensome and require that the burden of proof be on the current service providers to demonstrate that they are actually providing service at reasonable prices, (3) refrain from requiring tribal communities to document significant health risks when a significant proportion of the community is unserved, and (4) ensure that RUS applicant reviewers have some tribal training on special legal status of tribes as sovereign nations before reviewing these types of applications. The Society also suggested that the SUTA Farm Bill provisions ensure that tribes are automatically eligible to receive waivers from the agency's non-duplication policies when a tribe applies to serve their own areas.

RUS Response

With regard to trust land status, the RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the unique ''checker board'' character of trust and non-trust lands in tribal communities The agency, consistent with its current practice, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are ''necessary and incidental'' to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories.

With regard to data requirements under § 1700.107, the proposed rule provides that the ''explanation and documentation of the high need for the benefits of the eligible program * * * may'' include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists. The agency understands the burden; however, the applicant is in the best position to at least make an initial case that current services are inadequate. The agency can then attempt to document the service delivery by incumbent providers and the agency will make an independent determination based on the information that is available.

With regard to areas unserved by water utilities, the agency certainly supports the general proposition that the absence of clean sources of drinking water poses serious health risks, but the specific details of the types of health risks a community faces due to water quality and availability in that specific location both helps the agency meet the finding of ''substantially underserved'' and target limited funding to areas where it is needed the most.

As for training on the special legal status of tribes as sovereign nations for application reviewers, the agency has and will continue to train staff on the SUTA provision and a wide range of issues affecting tribal participation in RUS program including the sovereign nation status of tribes. RUS has provided service to numerous tribes as sovereign nations, and understands the legal status and collateral challenges to develop solutions that provide for program participation and the balance to protect taxpayer investments.

Regarding amendments to the Farm Bill, under SUTA the RUS may make legislative recommendations and will take our experience with the new authorities into account.

Waimea Hawaiian Homesteaders Association, Council for Native Hawaiian Advancement, Lalamilo Community Association and the Department of Hawaiian Homelands

The agency received comments from several entities in support of RUS' historic consultation efforts to implement the SUTA provisions to communities residing on trust lands managed by the Department of Hawaiian Home lands. The agency has a long history of providing access to capital for infrastructure projects to communities throughout the Hawaiian home lands. The current statute only applies the SUTA provisions to RUS programs. The Rural Development mission area will likely learn from the implementation of SUTA by the RUS and may outline important best practices in its annual report to Congress.

In comments submitted by the state of Hawaii's Department of Hawaiian Homelands (DHHL), recommendations were made requesting the agency to (1) interpret § 1700.104 to apply feasibility requirements on the specific project rather than the applicant and (2) interpret § 1700.107 to permit USDA to provide grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii that have a median family income of 80 percent.

RUS Response

Regarding the feasibility recommendation, the agency points to its response to the NTTA (below) which raised similar recommendations. The RUS is bound under Section 306F(c)(4) of the Rural Electrification Act (RE Act) which states that the Secretary ''shall only make loans or loan guarantees that are found to be financially feasible'' under the SUTA amendments to the RE Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the RE Act are summarized earlier.

The RUS will continue its long standing practice of working collaboratively with native communities to find solutions that balance federal loan security requirements with the unique circumstances facing native communities. Therefore, DHHL's recommendations regarding loan security and financial feasibility will be addressed in the application review process.

With regard to DHHL's recommendation to authorize grant assistance of up to 75 percent for communities on Trust lands in Alaska and Hawaii with a median family income of 80 percent, the agency points to its response to NTTA regarding the level of grant funds dedicated for a particular provision in the statute. The amount of loan and grant funds that can be dedicated for any single purpose are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between grant, direct loan or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

We also note DHHL's support for § 1700.108 which covers application requirements that invite SUTA applicants to provide a variety of data sets that are already provided to other federal agencies who work closely with native communities. With the inclusion of subsection (H), RUS recognizes the need for native communities to articulate their unique circumstances to federal agencies for purposes of program eligibility.

NANA Regional Corporation

The NANA Regional Corporation (an ANCSA Regional Corporation in Alaska) filed comments expressing concern over the current eligibility requirements contained in the Proposed Rule on SUTA. NANA argues that the current requirements may preclude villages in its region and across Alaska for SUTA consideration since many Alaska Native villages are not located on large tracts of trust land.

RUS Response

The definition of trust areas in the Proposed Rule is taken directly from the current statute (7 U.S.C. 306F (B)(2)) added to the RE Act as part of the Food, Conservation and Energy Act of 2008 (the Farm Bill). This definition includes land that ''is owned by a Regional Corporation or a Village Corporation, as such terms are defined in Section 3(g) and 3(j) of the Alaska Native Claims Settlement Act * * *.'' The RUS does not have the authority to adjust the statutory definition of trust lands. RUS understands the many unique infrastructure challenges that rural communities (both Native and non-Native) face throughout Alaska. The agency, consistent with current practice, however, may consider SUTA related applications that include non-Trust territories when the service to or through those areas are ''necessary and incidental'' to improving service to a covered Trust area. In other cases, the agency could allocate SUTA benefits to SUTA eligible territories. RUS is also legislatively mandated to report to Congress annually on its implementation of the SUTA legislation. As part of that report, RUS may suggest ''recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.'' In this regard, the NANA suggestions on coverage of non-Trust territories are very helpful.

Winnebago Tribe of Nebraska

The Winnebago Tribe of Nebraska expressed support for the SUTA regulations championing waivers of matching requirements and giving the highest priority to SUTA projects to facilitate expedient construction, acquisition or improvements of infrastructure throughout tribal communities. The Tribe noted the ongoing need for access to robust broadband service to be deployed in order for economic capacity building to occur throughout the Winnebago community. Specifically, the Tribe highlighted the inadequate level of mobile wireless and broadband coverage in their region. The tribe's listed priorities in health, education, safety and economic capacity building and recommend that tribal governments merit the right to control the planning, adoption, utilization and sustainability of any and all services that advance their goals.

RUS Response

SUTA will give the RUS new tools to make financial resources more accessible to entities seeking to bring modern utility services to tribal areas. We share the concerns expressed by the Tribe that unserved native communities can no longer be ignored and that the availability of adequate broadband access remains an important national priority. USDA has made the deployment of advanced services on Tribal lands a central pillar to our rural economic development mission which will be accelerated by this regulation.

National Tribal Telecommunications Association

The National Tribal Telecommunications Association commended USDA for its diligence implementing the SUTA provisions and offered specific comment on the following topics:

Disparity Analysis

The National Tribal Telecommunications Association (NTTA) suggested that the USDA adopt a metric of ''disparity'' to assess infrastructure ''underservice'' and recommended a comparison of access to infrastructure in a Trust Area and an area of community immediately contiguous to the Trust Area.

RUS Response

In § 1700.108(i) of the proposed rule, the agency seeks data from the applicant documenting a lack of service or inadequate service in the affected community (§ 1700.108(i)). The relative level of service between Trust and non-Trust territories as well as the relative cost between those areas are relevant factors and could be provided by applicants in a SUTA request. A disparity analysis may be very helpful in demonstrating a lack of service. If disparity information is provided in a RUS application, the agency will take such information into consideration when reviewing SUTA requests. RUS believes that codifying a disparity test may have the unintended consequence of signaling that SUTA authorities would be less available where a Trust Area exists and its surrounding non-Trust areas all suffer from a lack of service.

Overlapping or Incumbent Service Provider Areas

The NTTA recommends that the proposed definition of ''underserved'' in section 1700.101 be amended to add the phrase, ''notwithstanding that a service provider is an RUS borrower.''

RUS Response

A change in the definition of ''underserved'' is not necessary to address the concern of the commenter and is addressed elsewhere. Whether an area is determined to be ''underserved'' does not depend on the relationship of the incumbent service provider to the RUS. However, among the discretionary powers given to the agency under section 306F(c)(2) of the RE Act and under section 1700.106 of the proposed rule, is the power to waive ''non-

duplication restrictions.'' That core discretionary authority is not limited to areas served by RUS borrowers or non-borrowers.

Financial Feasibility Considerations

NTTA makes several comments and recommended changes regarding financial feasibility, loan security and risk assessments as well as weighing financial feasibility against a community's lack of essential infrastructure. Specifically, NTTA recommends changing proposed section 1700.104 from ''the financial feasibility of an application will be determined pursuant to normal underwriting practices for a particular eligible program'' to ''pursuant to normal underwriting practices, and such reasonable alternative practices as may support financial feasibility determination for a particular eligible program.'' NTTA also proposes to add additional discretionary authorities related to collateral, security and risk assessment and Times Interest Earned Ratio (TIER) calculations.

RUS Response

The Section 306F(c)(4) of the Rural Electrification Act states that the Secretary ''shall only make loans or loan guarantees that are found to be financially feasible'' under the SUTA amendments to the Rural Electrification Act and it does not expand other discretions. The SUTA discretionary authorities defined by these provisions of the Rural Electrification Act are summarized here.

- AUTHORITY OF SECRETARY.—In carrying out subsection (b), the Secretary—
  - May make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;
  - May waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;
  - May give the highest funding priority to designated projects in substantially underserved trust areas; and
  - Shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

The proposed regulation faithfully codifies those authorities and the constraint of financial feasibility is also aligned with the RUS programs to assure debt repayment and protect taxpayer funds. The agency does not have the administrative ability to exceed that authority. However, the commenter's concerns about finding creative solutions to feasibility issues are well taken. The RUS has a long history of working closely with tribal communities to address loan security issues. Since the earliest days of the Rural Electrification Administration and now the RUS, the agency has found ways to reconcile taxpayer's expectation of loan security with the sovereign rights of tribal governments. In this regard, the agency has adapted its mortgage documents and its loan contracts to accommodate unique tribal needs and circumstances.

The agency intends to continue to work with tribal organizations to find creative ways to address tribal needs while preserving loan security. Therefore, the final rule will adapt the language proposed by NTTA for § 1700.104 to read, ''pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project.''

Eligible Communities

NTTA proposes that consistent with its advocacy before the Federal Communications Commission (FCC), Tribes be given an option to choose the service provider serving a Trust community or providing services for its own community and that the Trust Area governments be permitted to engage service providers on quality of service standards.

RUS Response

All RUS applicants are required to demonstrate in their application that they have secured all regulatory approvals necessary to construct infrastructure and deliver services. The RUS does not have the power to define the jurisdiction of tribal governments and is mindful of their sovereignty. The agency engages with tribes on a government to government basis. An applicant must demonstrate that they have secured all necessary regulatory approvals on the federal, tribal, state and local levels. Furthermore, applicants must demonstrate that their projects are financially feasible. The agency notes that an applicant seeking to finance infrastructure on trust territory would likely have a difficult time demonstrating financial feasibility if it could not demonstrate tribal support, at a governmental or community level.

Grant Authority

The NTTA recommends that RUS convert loan funds to grant options for the benefit of ''underserved'' or ''unserved'' trust communities.

RUS Response

The availability of loan and grant funds are generally defined by the authorizing statutes the agency administers and the annual appropriations laws which allocate budget authority (BA) to various programs. The SUTA provisions of the RE Act do not grant the agency any new authorities to convert BA among and between loan, grant or loan guarantee categories. Where it has such authority, the agency takes into account the needs of eligible communities.

Flexible Proxies for Infrastructure Underservice

The NTTA commends the RUS for providing a list of proxies for determining ''underservice'' and recommends that an additional provision be added to allow for additional data to be submitted.

RUS Response

The proposed rule provides that the ''explanation and documentation of the high need for the benefits of the eligible program * * * may'' include data from the list of proxies. As such the list is not exclusive and applicants are welcome to provide additional information which could demonstrate to the Administrator that the high need for the benefits of the eligible program exists.

Technical Assistance

The NTTA recommends that RUS implement a technical assistance program. On a related matter, the NTTA also recommends that the RUS recommend to entities seeking to serve Trust Areas that they apply under SUTA.

RUS Response

''While the RUS has limited formal technical assistance funding for some of its programs,'' the RUS is committed to expanding outreach to tribal communities and applicants on all of its programs. The RUS appreciates the suggestion and shares the commenter's concern about technical assistance. That is why in the Broadband Initiatives Program of the American Recovery and Reinvestment Act of 2009, the RUS dedicated $3,384,202 of budget authority to fund 19 technical assistance

grants. The majority of those awards were to Native American communities and organizations.

USDA State Rural Development Offices, RUS General Field Representatives, Rural Water Circuit Riders and RUS headquarters staff all offer assistance to applicants and are integral parts of the rural development program delivery. SUTA is an important initiative and RUS and RD staff members have been trained on the provision and will be trained on the final rule.

Cheyenne River Sioux Tribe

In comments filed pursuant to the proposed SUTA regulation, the Cheyenne River Sioux Tribe requests that the RUS interpret the statutory language for SUTA to allow a waiver of the statutory limitation on provision of grant in 7 U.S.C. 1926(a)(2) for Water and Waste Disposal grants.

7 U.S.C. 1926(a)(2)(A)(ii) states that ''the amount of any grant made under the authority of this subparagraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.''

The commenter writes that the authority provided to the Secretary pursuant to Section 6105(C)(2) of the 2008 Farm Bill, allows the Secretary to waive the 75 percent grant limitation when considering financial assistance pursuant to 7 CFR 1780.

Neither authorizing statute for the Water and Waste Disposal loan and grant program, nor the program regulations, specifically state that a match is required. By way of contrast, in 7 U.S.C. 1926(a)(2)(C)(ii)(II), Congress specifically refers to matching funds related to Special Evaluation Assistance for Rural Communities and Households (SEARCH). In addition, in Section 306C of the Consolidated Farm and Rural Development Act (ConAct), Congress specifically authorized the Secretary to provide up to 100 percent grants for water and waste infrastructure to Native American Tribes to address health and sanitary issues.

However, the commenter further suggests that ''a restriction of the total amount of project cost that would be funded with grant funds creates a matching requirement whether the word ''matching'' is used.

RUS Response

The Agency will consider requests for waiver of some, or all, of the loan portion of a loan-grant combination under SUTA authority on a case-by-case basis. The decision to consider a waiver does not waive the over-arching requirement for a finding of need or feasibility pursuant to program regulations. The final determination of grant assistance will be made based on the following factors:

1. Eligibility requirements, including credit elsewhere certifications pursuant to 1780.7(d);

2. Underwriting and demonstration of need for grant, including the use of the prevailing program interest rate and the discretionary as low as 2% interest rates on loans pursuant to SUTA;

3. Availability of funds, including those funds available pursuant to the Section 306C grant set-aside for Native American Tribes or other applicable congressional set-asides; and

4. Percentage of the project that is located on SUTA eligible trust lands.

Eligibility Requirements

Eligibility requirements pursuant to 7 CFR 1780, such as credit elsewhere certifications (§ 1780.7(d)) and restrictions on the use of grant to reduce equivalent dwelling unit costs to a level less than similar systems cost (§ 1780.10 (b)(1)), will apply to applicants seeking a waiver of the loan component under SUTA.

Finding of Need and Feasibility Through Underwriting

To ensure that limited grants funds are awarded to those projects with the greatest need, financial analysis and underwriting will continue to be used to determine the need for grant, including grant above the 75 percent level. The analysis will include the applicant's ability to incur debt at the prevailing program interest rate and the discretionary as low as 2 percent interest rates on loans pursuant to SUTA.

Availability of Funds

The commenter correctly noted that the Agency has limited grant funding available in the regular loan and grant program and a backlog of requests that exceeds $3 billion. In addition, reductions in program funds will impact the ability of the Agency to provide needed grant funding. To support SUTA efforts to increase tribal participation in the program, the Agency will maximize the use of the Section 306C grant program, and other appropriate grant program set-asides to meet the grant needs of projects seeking waivers of the 75 percent grant limitation under SUTA. To ensure that grant funds are available to fund as many projects as possible, the agency may limit the total amount of grant funding to be used to address requests for additional grants pursuant to SUTA, as well as total Agency grant investment in the project.

Percentage of Project on SUTA-Defined Trust Lands

Grant determinations will factor in the percentage of the proposed project that is located on substantially underserved trust lands as defined under SUTA.

List of Subjects in 7 CFR Part 1700

Authority delegations (Government agencies), Electric power, Freedom of information, Loan programs—communications, Loan programs-energy, Organization and functions (Government agencies), Rural areas, Telecommunications, Broadband loan and grant programs, water and waste loan and grant program, and the Distance Learning and Telemedicine program.

For reasons set out in the preamble, the agency amends chapter XVII of title 7 of the Code of Federal Regulations by amending part 1700 to read as follows:

PART 1700—GENERAL INFORMATION

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

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.,* 1921 *et. seq.,* 6941 *et seq.;* 7 CFR 2.7, 2.17 and 2.47.

§§ 1700.59 through 1700.99 [Reserved]

■ 2. Add reserved §§ 1700.59 through 1700.99 to Subpart C of part 1700.

■ 3. Add subpart D, consisting of §§ 1700.100 to 1700.150, to read as follows:

Subpart D—Substantially Underserved Trust Areas

Sec.

1700.100 Purpose.
1700.101 Definitions.
1700.102 Eligible programs.
1700.103 Eligible communities.
1700.104 Financial feasibility.
1700.105 Determining whether land meets the statutory definition of ''trust land.''
1700.106 Discretionary provisions.
1700.107 Considerations relevant to the exercise of SUTA discretionary provisions.
1700.108 Application requirements.
1700.109 RUS review.
1700.110—1700.149 [Reserved]
1700.150 OMB Control Number.

Subpart D—Substantially Underserved Trust Areas

§ 1700.100 Purpose.

This subpart establishes policies and procedures for the Rural Utilities Service (RUS) implementation of the

Substantially Underserved Trust Areas (SUTA) initiative under section 306F of the Rural Electrification Act of 1936, as amended (7 U.S.C. 906f). The purpose of this rule is to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

§ 1700.101 Definitions.

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an entity that is eligible for an eligible program under that program's eligibility criteria.

Borrower means any organization that has an outstanding loan or loan guarantee made by RUS for a program purpose.

Completed application means an application that includes the elements specified by the rules for the applicable eligible program in form and substance satisfactory to RUS.

ConAct means the Consolidated Farm and Rural Development Act, as amended (7 USC 1921 *et seq.*).

Credit support means equity, cash requirements, letters of credit, and other financial commitments provided in support of a loan or loan guarantee.

Eligible community means a community as defined by 7 CFR 1700.103.

Eligible program means a program as defined by 7 CFR 1700.102.

Financial assistance means a grant, combination loan and grant, loan guarantee or loan.

Financial feasibility means the ability of a project or enterprise to meet operating expenses, financial performance metrics, such as debt service coverage requirements and return on investment, and the general ability to repay debt and sustain continued operations at least through the life of the RUS loan or loan guarantee.

Matching fund requirements means the applicant's financial or other required contribution to the project for approved purposes.

Nonduplication generally means a restriction on financing projects for services in a geographic area where reasonably adequate service already exists as defined by the applicable program.

Project means the activity for which financial assistance has been provided.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, successor to the Rural Electrification Administration.

Substantially underserved trust area means a community in trust land with respect to which the Administrator determines has a high need for the benefits of an eligible program.

Trust land means ''trust land'' as defined in section 3765 of title 38, United States Code as determined by the Administrator under 7 CFR 1700.104.

Underserved means an area or community lacking an adequate level or quality of service in an eligible program, including areas of duplication of service provided by an existing provider where such provider has not provided or will not provide adequate level or quality of service.

§ 1700.102 Eligible programs.

SUTA does not apply to all RUS programs. SUTA only applies to eligible programs. An eligible program means a program administered by RUS and authorized in paragraph (a) of the RE Act, or paragraphs (b)(1), (2), (14), (22), or (24) of section 306(a) (7 U.S.C. 1926(a)(1), (2), (14), (22), (24)), or sections 306A, 306C, 306D, or 306E of the Con Act (7 U.S.C. 1926a, 1926c, 1926d, 1926e).

§ 1700.103 Eligible communities.

An eligible community is a community that:

(a) Is located on Trust land;

(b) May be served by an RUS administered program; and

(c) Is determined by the Administrator as having a high need for benefits of an eligible program.

§ 1700.104 Financial feasibility.

Pursuant to normal underwriting practices, and such reasonable alternatives within the discretion of RUS that contribute to a financial feasibility determination for a particular eligible program or project, the Administrator will only make grants, loans and loan guarantees that RUS finds to be financially feasible and that provide eligible program benefits to substantially underserved trust areas. All income and assets available to and under the control of the Applicant will be considered as part of the Applicant's financial profile.

§ 1700.105 Determining whether land meets the statutory definition of ''trust land.''

The Administrator will use one or more of the following resources in determining whether a particular community is located in Trust land:

(a) Official maps of Federal Indian Reservations based on information compiled by the U. S. Department of the Interior, Bureau of Indian Affairs and made available to the public;

(b) Title Status Reports issued by the U. S. Department of the Interior, Bureau of Indian Affairs showing that title to such land is held in trust or is subject to restrictions imposed by the United States;

(c) Trust Asset and Accounting Management System data, maintained by the Department of the Interior, Bureau of Indian Affairs;

(d) Official maps of the Department of Hawaiian Homelands of the State of Hawaii identifying land that has been given the status of Hawaiian home lands under the provisions of section 204 of the Hawaiian Homes Commission Act, 1920;

(e) Official records of the U.S. Department of the Interior, the State of Alaska, or such other documentation of ownership as the Administrator may determine to be satisfactory, showing that title is owned by a Regional Corporation or a Village Corporation as such terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq*);

(f) Evidence that the land is located on Guam, American Samoa or the Commonwealth of the Northern Mariana Islands, and is eligible for use in the Veteran's Administration direct loan program for veterans purchasing or constructing homes on communally-owned land; and

(g) Any other evidence satisfactory to the Administrator to establish that the land is ''trust land'' within the meaning of 38 U.S.C. 3765(1).

§ 1700.106 Discretionary provisions.

(a) To improve the availability of eligible programs in eligible communities determined to have a high need for the benefits of an eligible program, the Administrator retains the discretion, on a case-by-case basis, to use any of the following SUTA authorities individually or in combination to:

(1) Make available to qualified applicants financing with an interest rate as low as 2 percent;

(2) Extend repayment terms;

(3) Waive (individually or in combination) non-duplication restrictions, matching fund requirements, and credit support requirements from any loan or grant program administered by RUS; and

(4) Give the highest funding priority to designated projects in substantially underserved trust areas.

(b) Requests for waivers of nonduplication restrictions, matching fund requirements, and credit support requirements, and requests for highest funding priority will be reviewed on a case-by-case basis upon written request

of the applicant filed pursuant to 7 CFR 1700.108.

(c) Notwithstanding the requirements in paragraph (b) of this section, the Administrator reserves the right to evaluate any application for an eligible program for use of the discretionary provisions of this subpart without a formal, written request from the applicant.

§ 1700.107 Considerations relevant to the exercise of SUTA discretionary provisions.

(a) In considering requests to make available financing with an interest rate as low as 2 percent, and extended repayment terms, the Administrator will evaluate the effect of and need for such terms on the finding of financial feasibility.

(b) In considering a request for a non-duplication waiver, the Administrator will consider the offerings of all existing service providers to determine whether or not granting the non-duplication waiver is warranted. A waiver of non-duplication restrictions will not be given if the Administrator determines as a matter of financial feasibility that, taking into account all existing service providers, an applicant or RUS borrower would not be able to repay a loan or successfully implement a grant agreement. Requests for waivers of non-duplication restrictions will be reviewed by taking the following factors into consideration:

(1) The size, extent and demographics of the duplicative area;

(2) The cost of service from existing service providers;

(3) The quality of available service; and

(4) The ability of the existing service provider to serve the eligible service area.

(c) Requests for waivers of matching fund requirements will be evaluated by taking the following factors into consideration:

(1) Whether waivers or reductions in matching or equity requirements would make an otherwise financially infeasible project financially feasible;

(2) Whether permitting a matching requirement to be met with sources not otherwise permitted in an affected program due to regulatory prohibition may be allowed under a separate statutory authority; and

(3) Whether the application could be ranked and scored as if the matching requirements were fully met.

(d) Requests for waivers of credit support requirements will be evaluated taking the following factors into consideration:

(1) The cost and availability of credit support relative to the loan security derived from such support;

(2) The extent to which the requirement is shown to be a barrier to the applicant's participation in the program; and

(3) The alternatives to waiving the requirements.

(e) The Administrator may adapt the manner of assigning highest funding priority to align with the selection methods used for particular programs or funding opportunities.

(1) Eligible programs which use priority point scoring may, in a notice of funds availability or similar notice, assign extra points for SUTA eligible applicants as a means to exercise a discretionary authority under this subpart.

(2) The Administrator may announce a competitive grant opportunity focused exclusively or primarily on trust lands which incorporates one or more discretionary authorities under this subpart into the rules or scoring for the competition.

§ 1700.108 Application requirements.

(a) To receive consideration under this subpart, the applicant must submit to RUS a completed application that includes all of the information required for an application in accordance with the regulations relating to the program for which financial assistance is being sought. In addition, the applicant must notify the RUS contact for the applicable program in writing that it seeks consideration under this subpart and identify the discretionary authorities of this subpart it seeks to have applied to its application. The required written request memorandum or letter must include the following items:

(1) A description of the applicant, documenting eligibility.

(2) A description of the community to be served, documenting eligibility in accordance with 7 CFR 1700.103.

(3) An explanation and documentation of the high need for the benefits of the eligible program, which may include:

(i) Data documenting a lack of service (i.e. no service or unserved areas) or inadequate service in the affected community;

(ii) Data documenting significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable service.

(iii) Data documenting economic need in the community, which may include:

(A) Per capita income of the residents in the community, as documented by the U.S. Department of Commerce, Bureau of Economic Analysis;

(B) Local area unemployment and not-employed statistics in the community, as documented by the U.S. Department of Labor, Bureau of Labor Statistics and/or the U.S. Department of the Interior, Bureau of Indian Affairs;

(C) Supplemental Nutrition Assistance Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Economic Research Service;

(D) National School Lunch Program participation and benefit levels in the community, as documented by the U.S. Department of Agriculture, Food and Nutrition Service;

(E) Temporary Assistance for Needy Families Program participation and benefit levels in the community, as documented by the U.S. Department of Health and Human Services, Administration for Children and Families;

(F) Lifeline Assistance and Link-Up America Program participation and benefit levels in the community, as documented by the Federal Communications Commission and the Universal Service Administrative Company;

(G) Examples of economic opportunities which have been or may be lost without improved service.

(H) Data maintained and supplied by Indian tribes or other tribal or jurisdictional entities on ''trust land'' to the Department of Interior, the Department of Health and Human Services and the Department of Housing and Urban Development that illustrates a high need for the benefits of an eligible program.

(4) The impact of the specific authorities sought under this subpart.

(b) The applicant must provide any additional information RUS may consider relevant to the application which is necessary to adequately evaluate the application under this subpart.

(c) RUS may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

(d) The applicant must submit a completed application within the application window and guidelines for an eligible program.

§ 1700.109 RUS review.

(a) RUS will review the application to determine whether the applicant is eligible to receive consideration under this subpart and whether the application is timely, complete, and

responsive to the requirements set forth in 7 CFR 1700.107.

(b) If the Administrator determines that the application is eligible to receive consideration under this subpart and one or more SUTA requests are granted, the applicant will be so notified.

(c) If RUS determines that the application is not eligible to receive further consideration under this subpart, RUS will so notify the applicant. The applicant may withdraw its application or request that RUS treat its application as an ordinary application for review, feasibility analysis and service area verification by RUS consistent with the regulations and guidelines normally applicable to the relevant program.

§§ 1700.110–1700.149 [Reserved]

§ 1700.150 OMB Control Number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572–0147.

Dated: May 23, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–14255 Filed 6–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 5, 16, 28, and 160

[Docket ID OCC–2012–0005]

RIN 1557–AD36

Alternatives to the Use of External Credit Ratings in the Regulations of the OCC

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final rule.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings. Second, the agencies are required to remove any references to, or requirements of reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on such standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness.

The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

Today, the OCC is finalizing those rules as proposed.

DATES: The final rule amending 12 CFR part 5 is effective on July 21, 2012. The final rules amending 12 CFR parts 1, 16, 28, and 160 are effective on January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Kerri Corn, Director for Market Risk, Credit and Market Risk Division, (202) 874–4660; Michael Drennan, Senior Advisor, Credit and Market Risk Division, (202) 874–4660; Carl Kaminski, Senior Attorney, or Kevin Korzeniewski, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Eugene H. Cantor, Counsel, Securities and Corporate Practices Division, (202) 874–5210, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (the Dodd-Frank Act) contains two directives to Federal agencies including the OCC. First, section 939A directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings. Second, the agencies are required to remove references to, or requirements of reliance on, credit ratings and substitute such standard of creditworthiness as each agency determines is appropriate. The statute further provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on those standards.

On November 29, 2011, the OCC issued a notice of proposed rulemaking (NPRM), seeking comment on a proposal to revise its regulations pertaining to investment securities, securities offerings, and foreign bank capital equivalency deposits to replace references to credit ratings with alternative standards of creditworthiness. The OCC also proposed to amend its regulations pertaining to financial subsidiaries of national banks to better reflect the language of the underlying statute, as amended by section 939(d) of the Dodd-Frank Act.

The proposal generally pertained to rules that require national banks and Federal savings associations to determine whether a particular security or issuance qualifies, or does not qualify, for a specific treatment. For example, except for U.S. government securities and certain municipal securities, the OCC's investment securities regulations generally require a national bank or Federal savings association to determine whether or not a security is ''investment grade'' in order to determine whether purchasing the security is permissible.

The OCC received 11 comments on the proposed rules from banks, bank trade groups, individuals, and bank service providers. The majority of the commenters generally supported the proposed rules and stated that they presented a workable alternative to the use of credit ratings. A few commenters raised specific issues, which are addressed in more detail below.

After considering the comments and the issues raised, the OCC has decided to finalize the rules as proposed. In order to assist national banks and Federal savings associations in making these ''investment grade'' determinations, the OCC also is publishing a final guidance document today in this issue of the **Federal Register**.

II. Description of the Final Rules

For the purposes of its regulations at 12 CFR parts 1, 16, 28, and 160, the OCC is amending the definition of ''investment grade'' to remove references to credit ratings and nationally recognized statistical rating

[1] Public Law 111–203, Section 939A, 124 Stat. 1376, 1887 (July 21, 2010).

organizations (NRSROs).[2] Where appropriate, the final rules replace the references to credit ratings with non-ratings based standards of creditworthiness.

Parts 1, 16, and 160

These final rules remove references to credit ratings provided by NRSROs and instead generally require national banks and Federal savings associations to make assessments of a security's creditworthiness, similar to the assessments currently required for the purchase of unrated securities.

National Bank Regulations

Under the proposed amendments to parts 1 and 16, a security would be ''investment grade'' if the issuer of the security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. To meet this new standard, national banks must determine that the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. In the case of a structured security (that is, a security that relies primarily on the cash flows and performance of underlying collateral for repayment, rather than the credit of the issuer), the determination that full and timely repayment of principal and interest is expected may be influenced more by the quality of the underlying collateral, the cash flow rules, and the structure of the security itself than by the condition of the entity that is technically the issuer.

When determining whether a particular security is ''investment grade,'' the OCC expects national banks to consider a number of factors, to the extent appropriate. While external credit ratings and assessments remain valuable sources of information and provide national banks with a standardized credit risk indicator, if a national bank chooses to use credit ratings as part of its ''investment grade'' determination and due diligence, the bank should, consistent with existing rules and guidance, supplement the external ratings with a degree of due diligence processes and additional analyses that are appropriate for the bank's risk profile and for the size and complexity of the instrument. In other words, a security rated in the top four rating categories by an NRSRO is not automatically deemed to satisfy the revised ''investment grade'' standard.

Importantly, the proposal did not include a requirement that a national bank consider external credit ratings to make an ''investment grade'' determination. Therefore, a national bank could rely on other sources of information, including its own internal systems and/or analytics provided by third parties, when conducting due diligence and determining whether a particular security is a permissible and appropriate investment.

In comments on the proposed rule and guidance, banks and industry groups expressed concern about the amount of due diligence that the OCC would require a bank to conduct to determine whether an issuer has an adequate capacity to meet financial commitments under the security. Commenters were particularly concerned about the impact of due diligence requirements on smaller institutions. The OCC believes that the proposed ''investment grade'' standard and the due diligence required to meet it are consistent with those under prior ratings-based standards and existing due diligence requirements and guidance. Even under the prior ratings-based standards, national banks of all sizes should not rely solely on a credit rating to evaluate the credit risk of a security, and consistently have been advised through guidance and other supervisory materials to supplement any use of credit ratings with additional research on the credit risk of a particular security. Therefore, the OCC expects that most national banks already have such processes in place.

After considering the comments received, the OCC has decided to finalize the definition of ''investment grade'' as proposed. Also, in today's **Federal Register**, the OCC is publishing final guidance to assist national banks in determining whether a security is ''investment grade'' and to further explain the OCC's expectations with regard to regulatory due diligence requirements,[3] which remain unchanged. While the final guidance explains the OCC's expectations in more detail, the OCC's regulations require national banks to understand and evaluate the risks of purchasing investment securities. Fundamentally, national banks should not purchase securities for which they do not understand the relevant risks.

One commenter stated that the definition of ''investment grade'' for structured securities should explicitly require a bank to consider the likely performance of the underlying collateral under stressed economic scenarios. In the proposed rule, the OCC noted that the National Credit Union Administration (NCUA) explicitly proposed to include a similar requirement for all investment securities in regulations applicable to Federal credit unions.[4] Under the NCUA proposal, a Federal credit union must consider whether an obligor will continue to have the capacity to meet financial commitments, *even under adverse economic conditions,* when considering the creditworthiness of a security. In the November 29, 2011, proposal, the OCC requested comment on whether OCC regulations should include a similar requirement in the regulations applicable to national banks and Federal savings associations.

Under the OCC's prior ratings-based definition of ''investment grade,'' a security could be characterized as ''investment grade'' if it was rated in the top four ''investment grade'' ratings by two NRSROs (or one NRSRO if only one NRSRO had rated the particular security) or, if no NRSROs had rated the security, if the national bank or Federal savings association determined that the security was the credit equivalent of a security rated in the top four ''investment grade'' categories by an NRSRO. As a general matter, NRSROs consider potential adverse economic conditions when determining how to appropriately rate a security.[5] Therefore, the ratings-based standard for determining whether a security is ''investment grade'' generally included the consideration of potential adverse economic conditions.

The OCC does not intend for the elimination of references to credit ratings, in accordance with the Dodd-Frank Act, to change substantively the standards national banks must follow when deciding whether a security is ''investment grade,'' nor does it change the requirement set forth at 12 CFR 1.5, that institutions adhere to safe and sound banking practices when dealing in, underwriting, and purchasing and selling investment securities, and consider, as appropriate, the risks associated with the particular activities

[2] A nationally recognized statistical rating organization (NRSRO) is an entity registered with the U.S. Securities and Exchange Commission (SEC) as an NRSRO under section 15E of the Securities Exchange Act of 1934. *See,* 15 U.S.C. 78o–7, as implemented by 17 CFR 240.17g–1.

[3] *See* 12 CFR 1.5 (national banks) and 12 CFR 160.1(b) and 160.40(c) (federal savings associations).

[4] 76 FR 11164 (March 1, 2011).

[5] For example, on its public Web site, Moody's Corporation includes the following statement in its description of its ratings methodology:

In coming to a conclusion, rating committees routinely examine a variety of scenarios. Moody's ratings deliberately do not incorporate a single, internally consistent economic forecast. They aim rather to measure the issuer's ability to meet debt obligations against economic scenarios reasonably adverse to the issuer's specific circumstances.

Available at, http://www.moodys.com/ratings-process/Ratings-Policy-Approach/002003.

undertaken by the bank. As previously noted, national banks must perform due diligence necessary to establish (1) that the risk of default by the obligor is low, and (2) that full and timely repayment of principal and interest is expected. The depth of the due diligence should be a function of the security's credit quality, the complexity of the structure, and the size of the investment. The more complex a security's structure, the greater the expectations, even when the credit quality is perceived to be very high. To satisfy the ''investment grade'' and safety and soundness standards, a national bank should ensure that it understands a security's structure and how the security may perform under adverse economic conditions. A national bank should be particularly diligent when purchasing a structured security.

To the extent a national bank would be expected to consider adverse economic conditions under the current ''investment grade'' and safety and soundness standards, the OCC would expect the national bank to continue to consider adverse economic conditions, as appropriate, when conducting investment securities activities. Importantly, a national bank may not need to develop its own internal systems to measure potential adverse economic conditions to meet the revised standard. Instead, a national bank could consider projections provided by third parties, including those provided by NRSROs. Therefore, the OCC has determined that the ''investment grade'' standard does not need to be revised to address the commenter's concern. However, the OCC recognizes the need to clarify its expectations with regard to the level of due diligence necessary to meet the investment grade and safety and soundness standards. Therefore, the final guidance document, which is being published in today's **Federal Register**, provides further detail on the amount of due diligence the OCC expects national banks and Federal savings associations to undertake, including, as appropriate, the consideration of potential adverse economic conditions.

Federal Savings Association Regulations

Under current law, savings associations generally are prohibited by statute from investing in corporate debt securities unless they are rated ''investment grade'' by an NRSRO.[6] However, the Dodd-Frank Act provides that on July 21, 2012, this statutory requirement will be replaced by ''standards of creditworthiness established by the [FDIC].'' [7] In this final rule, the OCC is adopting the rule as proposed to define the term ''investment grade,'' as it is used in Part 160, to refer to 12 U.S.C. 1831e. Therefore, it will continue to reference the current ratings-based requirement until such time as that requirement is replaced by the FDIC.

A few commenters were concerned that the statutory provision requiring the FDIC to create an alternative for ratings under 12 U.S.C. 1831e could lead to different alternatives to the use of ratings for corporate debt securities. The OCC has consulted with and intends to continue to consult with the FDIC on the development of the alternative creditworthiness standard under 12 U.S.C. 1831e to ensure consistency to the extent possible.

At 12 CFR 160.42, Federal savings associations are subject to certain limitations with regard to purchases of state and local government obligations. Previously, Federal savings associations could hold state or municipal revenue bonds that have ratings in one of the four highest ''investment grade'' rating categories from one issuer up to a limit of 10 percent of total capital without prior OCC approval. Under the revised rules, this provision would apply to state or municipal revenue bonds if the issuer has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.

The OCC considered the comments discussed above regarding changes to the definition of ''investment grade'' for national bank regulations. For the same reasons, the OCC believes that Federal savings associations already should be conducting due diligence on these securities and that the new ''investment grade'' standard is appropriate. Therefore, the OCC adopts the revisions to § 160.42 as proposed. In addition, Federal savings associations should look to the final guidance document, issued today in the **Federal Register**, to provide more information about how to meet the ''investment grade'' standard in § 160.42.

Safety and Soundness Regulations

In addition to regulatory provisions that generally limit national banks and Federal savings associations to purchasing securities that are of ''investment grade,'' OCC regulations require that national banks and Federal savings associations conduct their investment activities in a manner that is consistent with safe and sound practices.[8] Specifically, national banks and Federal savings associations must consider the interest rate, credit, liquidity, price and other risks presented by investments, and the investments must be appropriate for the particular institution.[9] In addition to determining whether a security is of ''investment grade,'' national banks and Federal savings associations with substantial securities portfolios, in particular, must have and maintain robust risk management frameworks to ensure that an investment in a particular security appropriately fits within its goals and that the institution will remain in compliance with all relevant concentration limits. The final rules do not amend those provisions.[10]

Part 28—Foreign Banking Institutions

The OCC's capital equivalency deposit regulation at 12 CFR 28.15 previously allowed for the use of certificates of deposit or bankers' acceptances as part of the deposit if the issuer is rated ''investment grade'' by an internationally recognized rating organization. This final rule removes the requirement referencing credit ratings provided by ratings organizations. Instead, the issuer of the certificate of deposit or banker's acceptance must have ''an adequate capacity to meet financial commitments for the projected life of the asset or exposure.'' The OCC received no comments on this revision, and adopts it as proposed.

Effective Date

The OCC did not propose a specific effective date in the proposed rule. Two bank industry commenters were concerned that banks and savings associations would have insufficient time to develop processes for making ''investment grade'' determinations on new securities purchased before the effective date of this final rule. In addition, these commenters were concerned about the burden of analyzing securities institutions had purchased before the effective date of this final rule. These commenters suggested that the OCC adopt a one-year delayed effective date and allow for grandfathering of securities held by the institution before the effective date of this rule.

The OCC recognizes that it may take time for some national banks and

[6] 12 U.S.C. 1831e(d)(1).

[7] Public Law 111–203, Section 939(a)(2) (July 21, 2010).

[8] 12 CFR 1.5; 12 CFR 160.1(b), 160.40(c).

[9] 12 CFR 1.5(a); 12 CFR 160.1(b), 160.40(c).

[10] 76 FR 11164 (March 1, 2011).

Federal savings associations to develop the systems and processes necessary to make ''investment grade'' determinations under the new standard. Therefore, the OCC is allowing institutions until January 1, 2013, to come into compliance with this rule.

The OCC also understands that national banks and Federal savings associations own a significant amount of securities that were purchased with heavy reliance on credit ratings. Some of these securities, particularly structured securities, have maturity dates that could extend to 30 years. Therefore, the OCC does not believe that grandfathering would be appropriate, as institutions would be able to hold a grandfathered security for decades without performing additional ''investment grade'' analysis. National banks and Federal savings associations will still have until the proposed effective date of January 1, 2013, to evaluate their existing holdings and ensure that they meet the revised standard.

Part 5—Financial Subsidiaries

Finally, the OCC is adopting as proposed a technical change to 12 CFR 5.39, which pertains to financial subsidiaries of national banks, to conform with section 939(d) of the Dodd-Frank Act, which amends the criteria applicable to national banks seeking to control or hold an interest in a financial subsidiary.

Currently, pursuant to 12 U.S.C. 24a(a)(3), a national bank that is one of the 50 largest insured banks may control or hold an interest in a financial subsidiary if, among other criteria, the bank has at least one issue of outstanding eligible debt rated in one of the top three ''investment grade'' rating categories by an NRSRO.[11] A national bank that is one of the second 50 largest insured banks may either satisfy this requirement or it may satisfy such other criteria as the Secretary of the Treasury and the Federal Reserve Board may establish jointly by regulation. The Secretary of the Treasury and the Federal Reserve Board established an alternative creditworthiness requirement under this provision of the National Bank Act; however, the alternative requirement also is based on NRSRO credit ratings. Pursuant to Treasury Department regulations, a national bank that is within the second 50 largest insured banks may invest in a financial subsidiary if it has a ''current long-term issuer credit rating from at least one NRSRO that is within the three highest ''investment grade'' rating categories used by the organization.'' [12] No statutory creditworthiness requirement applies under current law to national banks that are not among the largest 100 insured banks.

Section 939(d) of the Dodd-Frank Act amends the creditworthiness requirements applicable to the 100 largest insured banks by removing the reference to NRSRO ratings and by eliminating any distinction between the first 50 largest insured banks and the second 50 such institutions. Effective on July 21, 2012, a national bank that is one of the 100 largest insured banks may control a financial subsidiary, directly or indirectly, or hold an interest in a financial subsidiary if the bank has not fewer than one issue of outstanding debt that meets such standards of creditworthiness or other criteria as the Secretary of the Treasury and the Federal Reserve Board may jointly establish. As is the case under current law, this statutory creditworthiness requirement does not apply to an insured depository institution that is not among the largest 100 insured depository institutions. Therefore, the Dodd-Frank revision will not affect the ability of such an institution to control or hold an interest in a financial subsidiary.[13]

The Secretary of the Treasury and Federal Reserve Board have not yet established alternative non-ratings-based creditworthiness requirements applicable to the 100 largest insured banks under this revised provision of the National Bank Act. Until specific creditworthiness standards are established under 12 U.S.C. 24a, as modified by the Dodd-Frank Act, no specific creditworthiness requirements will be required of national banks applying to control or hold an interest in a financial subsidiary. Importantly, however, the requirements at 12 CFR 5.39(g)(1) and (2) still apply. These provisions provide that a national bank may control or hold an interest in a financial subsidiary only if it and each depository institution affiliate is well-capitalized and well-managed, and the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of 45 percent of the consolidated total assets of the parent bank or $50 billion (or such greater amount as is determined according to an indexing mechanism jointly established by regulation by the Secretary of the Treasury and the Board of Governors of the Federal Reserve System).

In the NPRM and technical supplement,[14] the OCC proposed to revise 12 CFR 5.39 to be consistent with the Dodd-Frank Act revisions to 12 U.S.C. 24a described above. The OCC received no comments on the proposed revision, and therefore adopts it as proposed in the NPRM and technical amendment supplement.

III. Implementation Guidance

Together with this final rule, the OCC is publishing guidance for national bank and Federal savings association investment activities. This guidance is designed as an aid to institutions, particularly community banks and thrifts, regarding the factors they should consider in their due diligence with respect to securities of different degrees of complexity. The guidance reflects the OCC's expectations for national banks and Federal savings associations as they review their systems and consider any changes necessary to comply with the provisions for assessing credit risk in this final rule. The guidance describes factors institutions should consider with respect to certain types of investment securities to assess creditworthiness and to continue conducting their activities in a safe and sound manner.

As noted above, OCC regulations require that national banks and Federal savings associations conduct their investment activities in a manner that is consistent with safe and sound practices. Neither the final rules, nor the final guidance, change this requirement. The OCC expects national banks and Federal savings associations to continue

[11] 12 U.S.C. 24a(a)(3)(A)(i).

[12] 12 U.S.C. 24a(a)(3)(A)(ii). *See,* 12 CFR 1501.3.

[13] The reference to creditworthiness standards issued jointly by the Treasury Department and the Federal Reserve Board with respect to the 100 largest insured banks appears in a paragraph—paragraph (3)—that is cross-referenced by section 24a(a)(2)(E), which lists all of the requirements necessary for a national bank to have a financial subsidiary. This (a)(2)(E) list of requirements was amended by Dodd-Frank so that it continues to cross-reference paragraph (3), but now also refers to standards of creditworthiness established by the OCC as a criterion for having a financial subsidiary. Under one reading, (a)(2)(E) could be construed to impose new creditworthiness requirements for having a financial subsidiary on national banks that are not among the 100 largest insured banks and to permit banks that are among the 100 largest insured banks to choose between any creditworthiness standards that the OCC might issue and those issued jointly by the Treasury and the Board. Neither result squares with the cross-reference in the text to the requirement for the Treasury and the Board to issue creditworthiness standards for the 100 largest insured banks. Moreover, this reading is not sensible given that the statutory purpose is to eliminate references to credit rating agency ratings in statute and regulation, not to alter the requirements for all national banks to hold financial subsidiaries. The better reading is that national banks that are among the 100 largest insured banks must meet such standards of creditworthiness as the Treasury and the Board jointly establish and that the OCC is not required to impose new requirements on national banks that are not in that category.

[14] 76 FR 76905 (December 9, 2011).

to follow safe and sound practices in their investment activities.

IV. Regulatory Analyses

A. Paperwork Reduction Act

This final rule amends several regulations for which the OCC currently has approved collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520) (OMB Control Nos. 1557–0014; 1557–0190; 1557–0120; 1557–0205). The amendments in this final rule do not introduce any new collections of information into the rules, nor do they amend the rules in a way that substantively modifies the collections of information that Office of Management and Budget (OMB) has previously approved. Therefore, no additional OMB Paperwork Reduction Act approval is required at this time.

B. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act,[15] (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banks with assets less than or equal to $175 million) and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

This final rule would affect all 599 small national banks and all 284 small federally chartered savings associations.[16] However, because banks have long been expected to maintain a risk management process to ensure that credit risk is effectively identified, measured, monitored, and controlled, most if not all of the institutions affected by the rule already engage in appropriate risk management activity. Although the rule will affect a substantial number of small banks and federally chartered savings associations, it will not have a significant effect on a substantial number of those institutions. Therefore, the OCC certifies that the rule would not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (UMRA) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any one year. If a budgetary impact statement is required, section 205 of the UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

The OCC has determined that its final rule would not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more. Accordingly, the OCC has not specifically addressed the regulatory alternatives considered.

[15] 5 U.S.C. 605(b).

[16] All totals are as of March 31, 2012.

List of Subjects

12 CFR Part 1

Banks, Banking, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 16

National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

12 CFR Part 160

Banks, Banking, Consumer protection, Investments, manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Authority and Issuance

For the reasons stated in the preamble, the Office of the Comptroller of the Currency is amending parts 1, 5, 16, 28, and 160 of chapter I of Title 12, Code of Federal Regulations as follows:

PART 1—INVESTMENT SECURITIES

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

Authority: 12 U.S.C. 1, *et. seq.,* 12 U.S.C. 24 (Seventh), and 12 U.S.C. 93a.

■ 2. In § 1.2, revise paragraphs (d) through (f), remove and reserve paragraph (h), and revise paragraphs (m) and (n), to read as follows:

§ 1.2 Definitions.

* * * * *

(d) *Investment grade* means the issuer of a security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.

(e) *Investment security* means a marketable debt obligation that is investment grade and not predominately speculative in nature.

(f) *Marketable* means that the security:

(1) Is registered under the Securities Act of 1933, 15 U.S.C. 77a *et seq.;*

(2) Is a municipal revenue bond exempt from registration under the Securities Act of 1933, 15 U.S.C. 77c(a)(2);

(3) Is offered and sold pursuant to Securities and Exchange Commission Rule 144A, 17 CFR 230.144A, and investment grade; or

(4) Can be sold with reasonable promptness at a price that corresponds reasonably to its fair value.

* * * * *

(h) [Reserved]

* * * * *

(m) *Type IV security* means:

(1) A small business-related security as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(53)(A), that is fully secured by interests in a pool of loans to numerous obligors.

(2) A commercial mortgage-related security that is offered or sold pursuant to section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a commercial mortgage-related security as described in section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41), that represents ownership of a promissory note or certificate of interest or participation that is directly secured by a first lien on one or more parcels of real estate upon which one or more commercial structures are located and that is fully secured by interests in a pool of loans to numerous obligors.

(3) A residential mortgage-related security that is offered and sold pursuant to section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), that is investment grade, or a residential mortgage-related security as described in section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41)) that does not otherwise qualify as a Type I security.

(n) *Type V security* means a security that is:

(1) Investment grade;

(2) Marketable;

(3) Not a Type IV security; and

(4) Fully secured by interests in a pool of loans to numerous obligors and in which a national bank could invest directly.

■ 3. In § 1.3, revise paragraphs (e) and (h) to read as follows:

§ 1.3 Limitations on dealing in, underwriting, and purchase and sale of securities.

* * * * *

(e) *Type IV securities.* A national bank may purchase and sell Type IV securities for its own account. The amount of the Type IV securities that a bank may purchase and sell is not limited to a specified percentage of the bank's capital and surplus.

* * * * *

(h) *Pooled investments*—(1) *General.* A national bank may purchase and sell for its own account investment company shares provided that:

(i) The portfolio of the investment company consists exclusively of assets that the national bank may purchase and sell for its own account; and

(ii) The bank's holdings of investment company shares do not exceed the limitations in § 1.4(e).

(2) *Other issuers.* The OCC may determine that a national bank may invest in an entity that is exempt from registration as an investment company under section 3(c)(1) of the Investment Company Act of 1940, provided that the portfolio of the entity consists exclusively of assets that a national bank may purchase and sell for its own account.

(3) Investments made under this paragraph (h) must comply with § 1.5 of this part, conform with applicable published OCC precedent, and must be:

(i) Marketable and investment grade, or

(ii) Satisfy the requirements of § 1.3(i).

* * * * *

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

■ 4. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1, *et. seq.,* 12 U.S.C. 93a, 215a–2, 215a–3, 481, and section 5136A of the Revised Statutes (12 U.S.C. 24a).

■ 5. In § 5.39, revise paragraph (g)(3), add paragraph (g)(4), and revise paragraph (j)(2) to read as follows:

§ 5.39 Financial subsidiaries.

* * * * *

(g) * * *

(3) If the national bank is one of the 100 largest insured banks, determined on the basis of the bank's consolidated total assets at the end of the calendar year, the bank has not fewer than one issue of outstanding debt that meets such standards of creditworthiness or other criteria as the Secretary of the Treasury and the Federal Reserve Board may jointly establish pursuant to Section 5136A of title LXII of the Revised Statutes (12 U.S.C. 24a).

(4) Paragraph (g)(3) of this section does not apply if the financial subsidiary is engaged solely in activities in an agency capacity.

* * * * *

(j) * * *

(2) *Eligible debt requirement.* A national bank that does not continue to meet the qualification requirement set forth in paragraph (g)(3) of this section, applicable where the bank's financial subsidiary is engaged in activities other than solely in an agency capacity, may not directly or through a subsidiary, purchase or acquire any additional equity capital of any such financial subsidiary until the bank meets the requirement in paragraph (g)(3) of this section. For purposes of this paragraph (j)(2), the term ''equity capital'' includes, in addition to any equity investment, any debt instrument issued by the financial subsidiary if the instrument qualifies as capital of the subsidiary under Federal or state law, regulation, or interpretation applicable to the subsidiary.

* * * * *

PART 16—SECURITIES OFFERING DISCLOSURE RULES

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

Authority: 12 U.S.C. 1, *et. seq.,* 12 U.S.C. 93a.

■ 7. In § 16.2, revise paragraph (g) to read as follows:

§ 16.2 Definitions.

* * * * *

(g) *Investment grade* means the issuer of a security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.

* * * * *

■ 8. In § 16.6, revise paragraph (a)(4) to read as follows:

§ 16.6 Sales of nonconvertible debt.

(a) * * *

(4) The debt is investment grade.

* * * * *

PART 28—INTERNATIONAL BANKING ACTIVITIES

■ 9. The authority citation for part 28 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 24 (Seventh), 93a, 161, 602, 1818, 3101 *et seq.,* and 3901 *et seq.*

■ 10. In § 28.15, revise paragraph (a)(1)(iii) to read as follows:

§ 28.15 Capital equivalency deposits.

(a) * * * (1) * * *

(iii) Certificates of deposit, payable in the United States, and banker's acceptances, provided that, in either case, the issuer has an adequate capacity to meet financial commitments for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected

* * * * *

PART 160—LENDING AND INVESTMENT

■ 11. The authority citation for part 160 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806, 5412(b)(2)(B); 42 U.S.C. 4106.

■ 12. In § 160.3, add the definition of *Investment grade* in alphabetical order to read as follows:

§ 160.3 Definitions.

* * * * *

Investment grade means a security that meets the creditworthiness standards described in 12 U.S.C. 1831e.

* * * * *

■ 13. In § 160.40, revise paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2)(ii) as follows:

§ 160.40 Commercial paper and corporate debt securities.

* * * * *

(a) * * * (1) * * *

(i) Investment grade as of the date of purchase; or

(ii) Guaranteed by a company having outstanding paper that meets the standard set forth in paragraph (a)(1)(i) of this section.

(2) * * *

(ii) Investment grade.

* * * * *

■ 14. In § 160.42, revise paragraphs (a) and (d) to read as follows:

§ 160.42 State and local government obligations.

(a) Pursuant to HOLA section 5(c)(1)(H), a Federal savings association may invest in obligations issued by any state, territory, possession, or political subdivision thereof (''governmental entity''), subject to appropriate underwriting and the following conditions:

	Aggregate limitation	Per-issuer limitation
(1) General obligations	None	None.
(2) Other obligations of a governmental entity (*e.g.*, revenue bonds) if the issuer has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected.	None	10% of the institution's total capital.
(3) Obligations of a governmental entity that do not qualify under any other paragraph but are approved by the OCC.	As approved by the OCC	10% of the institution's total capital.

* * * * *

(d) For all securities, the institution must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity and determine that such investment is appropriate for the institution. The institution must also determine that the obligor has adequate resources and willingness to provide for all required payments on its obligations in a timely manner.

■ 15. In § 160.93, revise paragraph (d)(5) introductory text and paragraph (d)(5)(i) to read as follows:

§ 160.93 Lending limitations.

* * * * *

(d) * * *

(5) Notwithstanding the limit set forth in paragraphs (c)(1) and (c)(2) of this section, a savings association may invest up to 10 percent of unimpaired capital and unimpaired surplus in the obligations of one issuer evidenced by:

(i) Commercial paper or corporate debt securities that are, as of the date of purchase, investment grade.

* * * * *

■ 16. In § 160.121, revise paragraphs (b)(1) and (2) to read as follows:

§ 160.121 Investments in state housing corporations.

* * * * *

(b) * * *

(1) The obligations are investment grade; or

(2) The obligations are approved by the OCC. The aggregate outstanding direct investment in obligations under paragraph (b) of this section shall not exceed the amount of the Federal savings association's total capital.

* * * * *

Dated: June 4, 2012.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2012–14169 Filed 6–12–12; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1 and 160

[Docket ID OCC–2012–0006]

RIN 1557–AD36

Guidance on Due Diligence Requirements in Determining Whether Securities Are Eligible for Investment

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final guidance.

SUMMARY: On November 29, 2011, the Office of the Comptroller of the Currency (OCC) proposed guidance to assist national banks and Federal savings associations in meeting due diligence requirements in assessing credit risk for portfolio investments. Today, the OCC is issuing final guidance that clarifies regulatory expectations with respect to investment purchase decisions and ongoing portfolio due diligence processes.

DATES: This guidance is effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Kerri Corn, Director for Market Risk, or Michael Drennan, Senior Advisor, Credit and Market Risk Division, (202) 874–4660; or Carl Kaminski, Senior Attorney, or Kevin Korzeniewski, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Eugene H. Cantor, Counsel, Securities and Corporate Practices Division, (202) 874–5202, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] requires each Federal agency, within one year of enactment, to review: (1) Any regulations that require the use of an assessment of the creditworthiness of a security or money market instrument and (2) any references to or requirements in those regulations regarding credit ratings. Section 939A then requires the Federal agencies to modify the regulations identified during the review to substitute any references to or requirements of reliance on credit ratings with such standards of creditworthiness that each agency determines to be appropriate. The statute provides that the agencies shall seek to establish, to the extent feasible, uniform standards of creditworthiness, taking into account the entities the agencies regulate and the purposes for which those entities would rely on such standards.

On November 29, 2011 (76 FR 73777), the OCC issued proposed guidance together with a notice of proposed rulemaking (NPRM) to remove references to credit ratings in the OCC's non-capital regulations. In particular, the OCC proposed to amend the definition of ''investment grade'' in 12 CFR part 1 to no longer reference credit ratings. Instead, ''investment grade'' securities would be those where the issuer has an adequate capacity to meet the financial commitments under the security for the projected life of the investment. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. Generally, securities with good to very strong credit quality will meet this standard. National banks will have to meet this new standard before purchasing investment securities. In addition, national banks and Federal savings associations should continue to maintain appropriate ongoing reviews of their investment portfolios to verify that their portfolios meet safety and soundness requirements that are appropriate for the institution's risk profile and for the size and complexity of their portfolios.

The OCC received 11 comments on the proposed rules and guidance from banks, bank trade groups, individuals, and bank service providers. The majority of the commenters generally supported the proposed rules and stated that the proposal presented a workable alternative to the use of credit ratings.

[1] Public Law 111–203, 939A (July 21, 2010) (Dodd-Frank Act).

A few commenters raised specific issues, which are addressed in more detail in the preamble to the final rules published in today's **Federal Register**.

Text of Final Supervisory Guidance

The text of the final supervisory guidance on due diligence that national banks and Federal savings associations should conduct in assessing credit risk for portfolio investments as required by 12 CFR part 1 and 12 CFR part 160 (specifically, 12 CFR 1.5 and 12 CFR 160.1(b) and 160.40(c)) follows:

Purpose

The OCC has issued final rules to revise the definition of ''investment grade,'' as that term is used in 12 CFR parts 1 and 160 in order to comply with section 939A of the Dodd-Frank Act. Institutions have until January 1, 2013, to ensure that existing investments comply with the revised ''investment grade'' standard, as applicable based on investment type, and safety and soundness practices described in 12 CFR 1.5 and this guidance. This implementation period also will provide management with time to evaluate and amend existing policies and practices to ensure new purchases comply with the final rules and guidance. National banks and Federal savings associations that have established due diligence review processes as described in previous guidance, and that have not relied exclusively on external credit ratings, should not have difficulty establishing compliance with the new standard.

The OCC is issuing this guidance (''Guidance'') to clarify steps national banks ordinarily are expected to take to demonstrate they have properly verified their investments meet the newly established credit quality standards under 12 CFR Part 1 and steps national banks and Federal savings associations are expected to take to demonstrate they are in compliance with due diligence requirements when purchasing investment securities and conducting ongoing reviews of their investment portfolios. Federal savings associations will need to follow FDIC requirements when that agency promulgates credit quality standards under 12 U.S.C. 1831e. The standards below describe how national banks may purchase, sell, deal in, underwrite, and hold securities consistent with the authority contained in 12 U.S.C. 24(Seventh), and how Federal saving associations may invest in, sell, or otherwise deal in securities consistent with the authority contained in 12 U.S.C. 1464(c). The activities of national banks and Federal savings associations also must be consistent with safe and sound banking practices, and this Guidance reminds national banks and Federal savings associations of the supervisory risk management expectations associated with permissible investment portfolio holdings under Part 1 and Part 160.

Background

Parts 1 and 160 provide standards for determining whether securities have appropriate credit quality and marketability characteristics to be purchased and held by national banks or Federal savings associations. These requirements also establish limits on the amount of investment securities an institution may hold for its own account. As defined in 12 CFR Part 1, an ''investment security'' must be ''investment grade.'' For the purpose of Part 1, ''investment grade'' securities are those where the issuer has an adequate capacity to meet the financial commitments under the security for the projected life of the investment. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. Generally, securities with good to very strong credit quality will meet this standard. In the case of a structured security (that is, a security that relies primarily on the cash flows and performance of underlying collateral for repayment, rather than the credit of the entity that is the issuer), the determination that full and timely repayment of principal and interest is expected may be influenced more by the quality of the underlying collateral, the cash flow rules, and the structure of the security itself than by the condition of the issuer.

National banks and Federal savings associations must be able to demonstrate that their investment securities meet applicable credit quality standards. This Guidance provides criteria that national banks can use in meeting Part 1 credit quality standards and that national banks and Federal savings associations can use in meeting due diligence requirements.

Determining Whether Securities Are Permissible Prior to Purchase

The OCC's elimination of references to credit ratings in its regulations, in accordance with the Dodd-Frank Act, does not substantively change the standards institutions should use when deciding whether securities are eligible for purchase under Part 1. The OCC's investment securities regulations generally require a national bank or Federal savings association to determine whether or not a security is ''investment grade'' in order to determine whether purchasing the security is permissible. Investments are considered ''investment grade'' if they meet the regulatory standard for credit quality. To meet this standard, a national bank must be able to determine that the security has (1) low risk of default by the obligor, and (2) the full and timely repayment of principal and interest is expected over the expected life of the investment.[2] A Federal savings association must meet the same standard when purchasing certain municipal revenue bonds pursuant to 12 CFR 160.24 and must meet the standards in 12 U.S.C. 1831e when purchasing corporate debt securities.

For national banks, Type I securities, as defined in Part 1, generally are government obligations and are not subject to investment grade criteria for determining eligibility to purchase. Typical Type I obligations include U.S. Treasuries, agencies, municipal government general obligations, and for well-capitalized institutions, municipal revenue bonds. While Type I obligations do not have to meet the investment grade criteria to be eligible for purchase, all investment activities should comply with safe and sound banking practices as stated in 12 CFR 1.5 and in previous regulatory guidance. Under OCC rules, Treasury and agency obligations do not require individual credit analysis, but bank management should consider how those securities fit into the overall purpose, plans, and risk and concentration limitations of the investment policies established by the board of directors. Municipal bonds should be subject to an initial credit assessment and then ongoing review consistent with the risk characteristics of the bonds and the overall risk of the portfolio.

Financial institutions should be well acquainted with fundamental credit analysis as this is central to a well-managed loan portfolio. The foundation of a fundamental credit analysis—character, capacity, collateral, and covenants—applies to investment securities just as it does to the loan portfolio. Accordingly, the OCC expects national banks and Federal savings

[2] Federal savings associations may invest in and hold investment securities under section 5(c) of the Home Owners' Loan Act (HOLA), to the extent specified in regulations of the OCC. While OCC regulations imposing investment limitations generally apply to Federal savings associations, the Federal Deposit Insurance Act (FDIA), 12 U.S.C. 1831e(d)(1) also applies. Under this provision, savings associations currently are prohibited from investing in corporate debt securities unless they are rated ''investment grade.'' However, the Dodd-Frank Act provides that on July 21, 2012, this statutory requirement will be replaced by standards of creditworthiness established by the FDIC. Pub. L. 111–203, Section 939(a)(2) (July 21, 2010).

associations to conduct an appropriate level of due diligence to understand the inherent risks and determine that a security is a permissible investment. The extent of the due diligence should be sufficient to support the institution's conclusion that a security meets the investment grade standards. This may include consideration of internal analyses, third party research and analytics including external credit ratings, internal risk ratings, default statistics, and other sources of information as appropriate for the particular security. Some institutions may have the resources to do most or all of the analytical work internally. Some, however, may choose to rely on third parties for much of the analytical work. While analytical support may be delegated to third parties, management may not delegate its responsibility for decision-making and should ensure that prospective third parties are independent, reliable, and qualified. The board of directors should oversee management to assure that an appropriate decision-making process is in place.

The depth of the due diligence should be a function of the security's credit quality, the complexity of the structure, and the size of the investment. The more complex a security's structure, the more credit-related due diligence an institution should perform, even when the credit quality is perceived to be very high. Management should ensure it understands the security's structure and how the security may perform in different default environments, and should be particularly diligent when purchasing structured securities.[3] The OCC expects national banks and Federal savings associations to consider a variety of factors relevant to the particular security when determining whether a security is a permissible and sound investment. The range and type of specific factors an institution should consider will vary depending on the particular type and nature of the securities. As a general matter, a national bank or Federal savings association will have a greater burden to support its determination if one factor is contradicted by a finding under another factor.

The following matrix provides examples of factors for national banks and Federal savings associations to consider as part of a robust credit risk assessment framework for designated types of instruments. The types of securities included in the matrix require a credit-focused pre-purchase analysis to meet the investment grade standard or safety and soundness standards. Again, the matrix is provided as a guide to better inform the credit risk assessment process. Individual purchases may require more or less analysis dependent on the security's risk characteristics, as previously described.

Key factors	Corporate bonds	Municipal government general obligations	Revenue bonds	Structured securities
Confirm spread to U.S. Treasuries is consistent with bonds of similar credit quality	X	X	X	X
Confirm risk of default is low and consistent with bonds of similar credit quality	X	X	X	X
Confirm capacity to pay and assess operating and financial performance levels and trends through internal credit analysis and/or other third party analytics, as appropriate for the particular security	X	X	X	X
Evaluate the soundness of a municipal's budgetary position and stability of its tax revenues. Consider debt profile and level of unfunded liabilities, diversity of revenue sources, taxing authority, and management experience		X		
Understand local demographics/economics. Consider unemployment data, local employers, income indices, and home values		X	X	
Assess the source and strength of revenue structure for municipal authorities. Consider obligor's financial condition and reserve levels, annual debt service and debt coverage ratio, credit enhancement, legal covenants, and nature of project			X	
Understand the class or tranche and its relative position in the securitization structure				X
Assess the position in the cash flow waterfall				X
Understand loss allocation rules, specific definition of default, the potential impact of performance and market value triggers, and support provided by credit and/or liquidity enhancements				X
Evaluate and understand the quality of the underwriting of the underlying collateral as well as any risk concentrations				X
Determine whether current underwriting is consistent with the original underwriting underlying the historical performance of the collateral and consider the affect of any changes				X
Assess the structural subordination and determine if adequate given current underwriting standards				X
Analyze and understand the impact of collateral deterioration on tranche performance and potential credit losses under adverse economic conditions				X

[3] For example, a national bank or Federal savings association should be able to demonstrate an understanding of the effects on cash flows of a structured security assuming varying default levels in the underlying assets.

Additional Guidance on Structured Securities Analysis

The creditworthiness assessment for an investment security that relies on the cash flows and collateral of the underlying assets for repayment (*i.e.,* a structured security) is inherently different from a security that relies on the financial capacity of the issuer for repayment. Therefore, a financial institution should demonstrate an understanding of the features of a structured security that would materially affect its performance and that its risk of loss is low even under adverse economic conditions. Management's assessment of key factors, such as those provided in this guidance, will be considered a critical component of any structured security evaluation. Existing OCC guidance, including OCC Bulletin 2002–19, ''Supplemental Guidance, Unsafe and Unsound Investment Portfolio Practices,'' states that it is unsafe and unsound to purchase a complex high-yield security without an understanding of the security's structure and performing a scenario analysis that evaluates how the security will perform in different default environments. Policies that specifically permit this type of investment should establish appropriate limits, and pre-purchase due diligence processes should consider the impact of such purchases on capital and earnings under a variety of possible scenarios. The OCC expects institutions to understand the effect economic stresses may have on an investment's cash flows. Various factors can be used to define the stress scenarios. For example, an institution could evaluate the potential impact of changes in economic growth, stock market movements, unemployment, and home values on default and recovery rates. Some institutions have the resources to perform this type of analytical work internally. Generally, analyses of the application of various stress scenarios to a structured security's cash flow are widely available from third parties. Many of these analyses evaluate the performance of the security in a base case and a moderate and severe stress case environment. Even under severe stress conditions, the stress scenario analysis should determine that the risk of loss is low and full and timely repayment of principal and interest is expected.

Maintaining an Appropriate and Effective Portfolio Risk Management Framework

The OCC has had a long-standing expectation that national banks implement a risk management process to ensure credit risk, including credit risk in the investment portfolio, is effectively identified, measured, monitored, and controlled. The *1998 Interagency Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities* (Policy Statement) contains risk management standards for the investment activities of banks and savings associations.[4] The Policy Statement emphasizes the importance of establishing and maintaining risk processes to manage the market, credit, liquidity, legal, operational, and other risks of investment securities. Other previously issued guidance that supplements OCC investment standards are OCC 2009–15, ''Risk Management and Lessons Learned'' (which highlights lessons learned during the market disruption and re-emphasizes the key principles discussed in previously issued OCC guidance on portfolio risk management); OCC 2004–25, ''Uniform Agreement on the Classification of Securities'' (which describes the importance of management's credit risk analysis and its use in examiner decisions concerning investment security risk ratings and classifications); and OCC 2002–19, ''Supplemental Guidance, Unsafe and Unsound Investment Portfolio Practices'' (which alerts banks to the potential risk to future earnings and capital from poor investment decisions made during periods of low levels of interest rates and emphasizes the importance of maintaining prudent credit, interest rate, and liquidity risk management practices to control risk in the investment portfolio).[5]

National banks and Federal savings associations must have in place an appropriate risk management framework for the level of risk in their investment portfolios. Failure to maintain an adequate investment portfolio risk management process, which includes understanding key portfolio risks, is considered an unsafe and unsound practice.

Having a strong and robust risk management framework appropriate for the level of risk in an institution's investment portfolio is particularly critical for managing portfolio credit risk. A key role for management in the oversight process is to translate the board of directors' tolerance for risk into a set of internal operating policies and procedures that govern the institution's investment activities. Policies should be consistent with the organization's broader business strategies, capital adequacy, technical expertise, and risk tolerance. Institutions should ensure that they identify and measure the risks associated with individual transactions prior to acquisition and periodically after purchase. This can be done at the institutional, portfolio, or individual instrument level. Investment policies also should provide credit risk concentration limits. Such limits may apply to concentrations relating to a single or related issuer, a geographical area, and obligations with similar characteristics. Safety and soundness principles warrant effective concentration risk management programs to ensure that credit exposures do not reach an excessive level.

The aforementioned risk management policies, principles, and due diligence processes should be commensurate with the complexity of the investment portfolio and the materiality of the portfolio to the financial performance and capital position of the institution. Investment review processes, following the pre-purchase analysis, may vary from institution to institution based on the individual characteristics of the portfolio, the nature and level of risk involved, and how that risk fits into the overall risk profile and operation of the institution. Investment portfolio reviews may be risk-based and focus on material positions or specific groups of investments or stratifications to enable analysis and review of similar risk positions.

As with pre-purchase analytics, some institutions may have the resources necessary to do most or all of their portfolio reviews internally. However, some may choose to rely on third parties for much of the analytical work. Third party vendors offer risk analysis and data benchmarks that could be periodically reviewed against existing portfolio holdings to assess credit quality changes over time. Holdings where current financial information or other key analytical data is unavailable should warrant more frequent analysis. High quality investments generally will not require the same level of review as investments further down the credit quality spectrum. However, any material positions or concentrations should be identified and assessed in more depth and more frequently, and any system should ensure an accurate and timely risk assessment and reporting process that informs the board of material changes to the risk profile

[4] On April 23, 1998, the FRB, FDIC, NCUA, OCC, and OTS issued the *''Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities.''* As issued by the OTS, the Policy Statement applied to both state and Federal savings associations.

[5] Similar requirements also apply to Federal savings associations as set forth in OTS Examination Handbook Section 540, *Investment Securities* (January 2010).

and prompts action when needed. National banks and Federal savings associations should have investment portfolio review processes that effectively assess and manage the risks in the portfolio and ensure compliance with policies and risk limits. Institutions should reference existing regulatory guidance for additional supervisory expectations for investment portfolio risk management practices.

Dated: June 4, 2012.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2012–14168 Filed 6–12–12; 8:45 am]

BILLING CODE 4810–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–3418; File No. S7–18–09]

RIN 3235–AK39

Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation; Extension of Compliance Date

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') is extending the date by which advisers must comply with the ban on third-party solicitation in rule 206(4)–5 under the Investment Advisers Act of 1940, the ''pay to play'' rule. The Commission is extending the compliance date in order to ensure an orderly transition for advisers and third-party solicitors as well as to provide additional time for them to adjust compliance policies and procedures after the transition.

DATES: *Effective date:* The effective date for this release is June 11, 2012. The effective date for the ban on third-party solicitation under rule 206(4)–5 of the Investment Advisers Act of 1940 remains September 13, 2010.

COMPLIANCE DATE: The compliance date for the ban on third-party solicitation is extended until nine months after the compliance date of a final rule adopted by the Commission by which municipal advisor firms must register under the Securities Exchange Act of 1934. Once such final rule is adopted, we will issue the new compliance date for the ban on third-party solicitation in a notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Meeks, Attorney-Adviser, or Melissa A. Roverts, Branch Chief, at (202) 551–6787 or *IArules@sec.gov,* Office of Investment Adviser Regulation, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: On July 1, 2010, the Commission adopted rule 206(4)–5 [17 CFR 275.206(4)–5] (the ''Pay to Play Rule'') under the Investment Advisers Act of 1940 [15 USC 80b] (''Advisers Act'') to prohibit an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or certain of its executives or employees (''covered associates'') make a contribution to certain elected officials or candidates.[1] As adopted, rule 206(4)–5 also prohibited an adviser and its covered associates from providing or agreeing to provide, directly or indirectly, payment to any third-party for a solicitation of advisory business from any government entity on behalf of such adviser, unless such third-party was an SEC-registered investment adviser or a registered broker or dealer subject to pay to play restrictions adopted by a registered national securities association (the ''third-party solicitor ban'').[2] Rule 206(4)–5 became effective on September 13, 2010, and, as adopted, the third-party solicitor ban's compliance date was September 13, 2011. This compliance date was intended to provide advisers and third-party solicitors with sufficient time to conform their business practices to the rule, and to revise their compliance policies and procedures to prevent a violation. In addition, the transition period was intended to provide an opportunity for a registered national securities association to adopt a pay to play rule and for the Commission to assess whether that rule met the requirements of rule 206(4)–5(f)(9)(ii)(B).[3] It was our understanding at the time, and it still is, that FINRA is planning to propose a rule that would meet those requirements, but we also suggested that we may need to take further action to ensure an orderly transition.[4]

Not long after the Pay to Play Rule was adopted, Congress created a new category of Commission registrants called ''municipal advisors'' in the Dodd-Frank Act. The statutory definition of municipal advisor includes persons that undertake ''a solicitation of a municipal entity.''[5] These solicitors would be registered with us and also subject to regulation by the Municipal Securities Rulemaking Board (''MSRB''). In September 2010, we adopted an interim final rule establishing a temporary means for municipal advisors to satisfy the registration requirement.[6] In December 2010, we proposed permanent rules and forms that would interpret the term ''municipal advisor'' and create a new process by which municipal advisors must register with the SEC.[7] On January 14, 2011, the MSRB requested comment on a draft proposal to establish a number of rules applicable to municipal advisors, including a pay to play rule.[8] In December 2011, we extended the expiration date of the interim final rule to September 30, 2012.[9]

With the understanding that municipal advisors would be subject to permanent registration requirements with the Commission and could be subject to an MSRB pay to play rule, on June 22, 2011, we amended the Pay to Play Rule to add municipal advisors to the categories of registered entities—referred to as ''regulated persons''—excepted from the rule's third-party solicitor ban.[10] For a municipal advisor to qualify as a ''regulated person,'' it must be registered with us as such and subject to a pay to play rule adopted by the MSRB. In addition, the Commission

[1] *Political Contributions by Certain Investment Advisers,* Investment Advisers Act Rel. No. 3043 (July 1, 2010) [75 FR 41018 (July 14, 2010)] (''Pay to Play Release'').

[2] *See id.* at Section II.B.2.(b). The Commission must find, by order, that those restrictions: (i) Impose substantially equivalent or more stringent restrictions on broker-dealers than the Pay to Play Rule imposes on investment advisers; and (ii) are consistent with the objectives of the Pay to Play Rule.

[3] *See* note 2. While rule 206(4)–5 applies to any registered national securities association, the Financial Industry Regulatory Authority, or FINRA, is currently the only registered national securities association under section 19(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78s(b)]. As such, for convenience, we will refer directly to FINRA in this Release when describing the exception for certain broker-dealers from the third-party solicitor ban.

[4] *See id.* at Section III.B.

[5] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) at section 975.

[6] The Dodd-Frank Act required municipal advisors to be registered with the Commission by October 2010. *See* section 975 of the Dodd-Frank Act.

[7] *See Registration of Municipal Advisors,* Exchange Act Release No. 63576 (Dec. 20, 2010) [76 FR 824, (Jan. 6, 2011)].

[8] *See* MSRB, *Request for Comment on Pay to Play Rule for Municipal Advisors,* MSRB Notice 2011–04 (Jan. 14, 2011) available at *http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2011/2011-04.aspx?n=1.*

[9] *Extension of Temporary Registration of Municipal Advisors,* Exchange Act Release No. 66020 (Dec. 21, 2011) [76 FR 80733 (Dec. 27, 2011)].

[10] *Rules Implementing Amendments to the Investment Advisers Act of 1940,* Investment Advisers Act Rel. No. 3221 (June 22, 2011) [76 FR 42950 (July 19, 2011)] (''Implementing Release'').

must find, by order, that the MSRB rule: (i) Imposes substantially equivalent or more stringent restrictions on municipal advisors than the Pay to Play Rule imposes on investment advisers; and (ii) is consistent with the objectives of the Advisers Act Pay to Play Rule. The Commission also extended the date by which advisers must comply with the ban on third-party solicitation from September 13, 2011 to June 13, 2012 due to the expansion of the definition of ''regulated persons.'' The extension was intended, again, to provide sufficient time for an orderly transition.[11]

Soon thereafter, on August 19, 2011, the MSRB filed a proposal with the Commission that included a new pay to play rule regarding the solicitation activities of municipal advisors and amendments to several existing MSRB rules related to pay to play practices.[12] On September 9, 2011, the MSRB withdrew the proposals, stating that it intends to resubmit them upon our adoption of a permanent definition of the term ''municipal advisor.'' [13]

In order to ensure an orderly transition for advisers and third-party solicitors as well as to provide additional time for them to adjust compliance policies and procedures after the transition, we believe that an extension of the compliance date for the Pay to Play Rule's third-party solicitor ban is appropriate until nine months after the compliance date of a final rule adopted by the Commission by which municipal advisor firms must register under the Securities Exchange Act of 1934. Final rules as to who must register as a municipal advisor, and the process for doing so, will provide clarity to persons who may qualify as municipal advisors, and the investment advisers who may hire them, as to status and registration obligations under these future Commission rules. The new compliance date will also allow all solicitors to assess compliance obligations with pay to play rules that may be adopted by FINRA or the MSRB.

The Commission finds that, for good cause and the reasons cited above, notice and solicitation of comment regarding the extension of the compliance date for the ban on third-party solicitation under rule 206(4)–5 are impracticable, unnecessary, or contrary to the public interest.[14] In this regard, the Commission also notes that investment advisers need to be informed as soon as possible of the extension in order to plan and adjust their implementation process accordingly.

By the Commission.

Dated: June 8, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14440 Filed 6–11–12; 8:45 am]

BILLING CODE 8011–01–P

[11] *See id.* at section II.D.1.

[12] *See Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed New Rule G–42, on Political Contributions and Prohibitions on Municipal Advisory Activities; Proposed Amendments to Rules G–8, on Books and Records, G–9, on Preservation of Records, and G–37, on Political Contributions and Prohibitions on Municipal Securities Business; Proposed Form G–37/G–42 and Form G–37x/G–42x; and a Proposed Restatement of a Rule G–37 Interpretive Notice,* Exchange Act Release No. 65255 (Sept. 2, 2011) [76 FR 55976 (Sept. 9, 2011)]; MSRB, *MSRB Files Pay to Play Rule for Municipal Advisors and Changes to Dealer Pay to Play Rule,* MSRB Notice 2011–46 (Aug. 19, 2011) *available at http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2011/2011-46.aspx.* The proposal consisted of (i) proposed MSRB Rule G–42 (on political contributions and prohibitions on municipal advisory activities); (ii) proposed amendments that would make conforming changes to MSRB Rules G–8 (on books and records), G–9 (on preservation of records), and G–37 (on political contributions and prohibitions on municipal securities business); (iii) proposed Form G–37/G–42 and Form G–37x/G–42x; and (iv) a proposed restatement of a Rule G–37 interpretive notice issued by the MSRB in 1997.

[13] *See* MSRB, MSRB *Withdraws Pending Municipal Advisor Rule Proposals,* MSRB Notice 2011–51 (Sept. 12, 2011) *available at http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2011/2011-51.aspx.*

[14] *See* Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) (''APA'') (an agency may dispense with prior notice and comment when it finds, for good cause, that notice and comment are ''impracticable, unnecessary, or contrary to the public interest''). This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the rules to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are ''impractical, unnecessary or contrary to the public interest,'' a rule ''shall take effect at such time as the federal agency promulgating the rule determines''). Also, because the Regulatory Flexibility Act (5 U.S.C. 601—612) only requires agencies to prepare analyses when the APA requires general notice of rulemaking, that Act does not apply to the actions that we are taking in this release. The change to the compliance date is effective upon publication in the **Federal Register**. This date is less than 30 days after publication in the **Federal Register**, in accordance with the APA, which allows effectiveness in less than 30 days after publication for ''a substantive rule which grants or recognizes an exemption or relieves a restriction.'' *See* 5 U.S.C. 553(d)(1).

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2012–0024]

RIN 0960–AH49

Extension of Expiration Dates for Several Body System Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending the expiration dates of the following body systems in the Listing of Impairments (listings) in our regulations: Growth Impairment, Musculoskeletal System, Respiratory System, Cardiovascular System, Digestive System, Hematological Disorders, Skin Disorders, Neurological, and Mental Disorders. We are making no other revisions to these body system listings in this final rule. This extension will ensure that we continue to have the criteria we need to evaluate impairments in the affected body systems at step three of the sequential evaluation processes for initial claims and continuing disability reviews.

DATES: This final rule is effective on June 13, 2012.

FOR FURTHER INFORMATION CONTACT: Cheryl Williams, Director, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020. 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:

Background

We use the listings in appendix 1 to subpart P of part 404 of 20 CFR at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the title II and title XVI programs.[1] 20 CFR 404.1520(d), 416.920(d). The listings are in two parts: Part A (adults) and Part B (children). If you are age 18 or over, we apply the listings in part A when we assess your claim. If you are under age 18, we first use the criteria in part B of the listings. If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. 20 CFR 404.1525(b), 416.925(b).

Explanation of Changes

In this final rule, we are extending the dates on which the listings for nine body systems will no longer be effective. The current expiration dates for these listing are provided in the following chart:

[1] We also use the listings in the sequential evaluation processes we use to determine whether a beneficiary's disability continues. See 20 CFR 404.1594, 416.994, and 416.994a .

Listing	Date no longer effective unless extended or revised and promulgated again
Growth Impairment 100.00	July 1, 2014.
Musculoskeletal System 1.00 and 101.00	July 1, 2014.
Respiratory System 3.00 and 103.00	April 1, 2014.
Cardiovascular System 4.00 and 104.00	October 1, 2014.
Digestive System 5.00 and 105.00	April 1, 2014.
Hematological Disorders 7.00 and 107.00	January 2, 2014.
Skin Disorders 8.00 and 108.00	April 1, 2014.
Neurological 11.00 and 111.00	April 1, 2014.
Mental Disorders 12.00 and 112.00	January 2, 2014.

We continue to revise and update the listings on a regular basis.[2] We intend to update the nine listings affected by this rule as quickly as possible, but may not be able to publish final rules revising these listings by the current expiration dates. Therefore, we are extending the expiration dates as listed above.

Regulatory Procedures

Justification for Final Rule

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to the notice-and-comment requirements when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We determined that good cause exists for dispensing with the notice and public comment procedures. 5 U.S.C. 553(b)(B). This final rule only extends the date on which several body system listings will no longer be effective. It makes no substantive changes to our rules. Our current regulations [3] provide that we may extend the expiration dates, or revise and promulgate the body system listings again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). We are not making any substantive changes in these body system listings. Without an extension of the expiration dates for these listings, we will not have the criteria we need to assess medical impairments in these body systems at step three of the sequential evaluation processes. We therefore find it is in the public interest to make this final rule effective on the publication date.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the requirements for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it. We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule does not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections, and therefore does not require OMB approval under the Paperwork Reduction Act.

(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; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending appendix 1 to subpart P of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend appendix 1 to subpart P of part 404 by revising items 1, 2, 4, 5, 6, 8, 9, 12, and 13 of the introductory text before Part A to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

* * * * *

1. Growth Impairment (100.00): July 1, 2014.

2. Musculoskeletal System (1.00 and 101.00): July 1, 2014.

* * * * *

4. Respiratory System (3.00 and 103.00): April 1, 2014.

5. Cardiovascular System (4.00 and 104.00): October 1, 2014.

6. Digestive System (5.00 and 105.00): April 1, 2014.

* * * * *

8. Hematological Disorders (7.00 and 107.00): January 2, 2014.

9. Skin Disorders (8.00 and 108.00): April 1, 2014.

* * * * *

12. Neurological (11.00 and 111.00): April 1, 2014.

[2] Since we last extended the expiration date of some of the listings in June 2010 (75 FR 33166 (2010)), we have published final rules revising the endocrine body system (76 FR 19692 (2011)) ; and proposed rules for the multiple body system (76 FR 66006 (2011)) and the vision listings in the special senses and speech body system (77 FR 7549 (2012)).

[3] See the first sentence of appendix 1 to subpart P of part 404 of 20 CFR.

13. Mental Disorders (12.00 and 112.00): January 2, 2014.

* * * * *

[FR Doc. 2012–14407 Filed 6–12–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0169]

RIN 1625–AA08

Special Local Regulation for Marine Events, Chesapeake Bay Workboat Race, Back River, Messick Point; Poquoson, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a special local regulation during the Chesapeake Bay Workboat Race, a series of boat races to be held on the waters of Back River, Poquoson, Virginia. Because this event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of Back River, this regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Back River, Messick Point, Poquoson, Virginia during the event.

DATES: This rule is effective from 11 a.m. until 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11 a.m. until 5 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0169]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5581, email *Hector.L.Cintron@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 2, 2012, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation for Marine Events, Chesapeake Bay Workboat Race, Back River, Messick Point, Poquoson, Virginia in the **Federal Register** (76 FR 093). We received 02 comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment during the workboat race event; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

Background and Purpose

On June 24, 2012, the Chesapeake Bay Workboat Race Committee will sponsor the ''2012 Chesapeake Bay Workboat Races'' on the waters of Back River. The event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of Back River, Messick Point, Poquoson, VA. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the races to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Comments and Changes

The Coast Guard did receive 02 comment in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. No public meeting was requested and none was held. What follows is a review of, and the Coast Guard's response to, the issue that was presented by the commenter concerning the proposed regulations.

The commenter, Annette D. Firth of Chesapeake Boat Workboat Race Committee, who is the event organizer, stated that they the committee would like to add a rain date to the regulation to provide for inclement weather. Rain date was added for July 8, 2012. A second comment was unrelated to regulation. Accordingly, the Coast Guard is establishing a special local regulation on specified waters on the Back River, Poquoson, Virginia and we feel that adding a rain date to the effective period described in the proposed rule as suggested by the commenter will not adversely affect waterway users in this portion of the Back River on July 8, 2012.

Discussion of the Final Rule

The Coast Guard is establishing a temporary special local regulation on specified waters of the Back River, Messick Point in Poquoson, Virginia. The regulated area will be established in the interest of public safety during the ''Chesapeake Bay Workboat Race'', and will be enforced from 11 a.m. to 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11 a.m. until 5 p.m. The Coast Guard, at its discretion, when practical, will allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

This regulation will establish an enforcement location to include all waters of the Back River, Poquoson, Virginia, bounded to the north by a line drawn along latitude 37°06′30″ N, bounded to the south by a line drawn along latitude 37°16′15″ N, bounded to the east by a line drawn along longitude 076°18′52″ W and bounded on the west by a line drawn along longitude 076°19′30″ W.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this rule prevents traffic from transiting a portion of certain waterways during specified times, the effect of this regulation will not be significant due to

the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly.

Impact Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit this section of the Back River from 11 a.m. until 5 p.m. on June 24, 2012, with a rain date of July 8, 2012 from 11 a.m. until 5 p.m.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 6 hours. Vessel traffic could pass safely around the safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Hector Cintron. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary section, § 100.35–T05–0169 to read as follows:

§ 100.35T05–0169 Special Local Regulations; Marine Events; Back River, Poquoson, VA.

(a) *Regulated area.* The following location is a regulated area: Includes all waters of the Back River, Poquoson, Virginia, bounded to the north by a line

drawn along latitude 37°06′30″ N, bounded to the south by a line drawn along latitude 37°16′15″ N, bounded to the east by a line drawn along longitude 076°18′52″ W and bounded on the west by a line drawn along longitude 076°19′30″ W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) All Coast Guard vessels enforcing this regulated area can be contacted at telephone number 757–668–5555 or on marine band radio VHF–FM channel 16 (156.8 MHz).

(3) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) Enforcement period: This section will be enforced from 11 a.m. to 5 p.m. on June 24, 3012, with a rain date of July 8, 2012 from 11 a.m. to 5 p.m.

Dated: May 31, 2012.

Mark S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2012–14379 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

46 CFR Part 162

[Docket No. USCG–2001–10486]

RIN 1625–AA32

Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

AGENCY: Coast Guard, DHS.

ACTION: Rule; announcement of effective date.

SUMMARY: On March 23, 2012, the Coast Guard published in the **Federal Register** a Final Rule entitled ''Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters''. The rulemaking triggered new information collection requirements affecting vessel owners and their potential requests for an extension of the compliance date if they cannot practicably comply with the compliance date otherwise applicable to their vessels. This document announces that the request to revise the existing collection of information to add the new request for an extension provision has been approved by the Office of Management and Budget (OMB) and may now be enforced. The OMB control number is 1625–0069.

DATES: 33 CFR 151.1513 and 151.2036 will be effective beginning June 21, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, call or email Mr. John Morris, Project Manager, U.S. Coast Guard; telephone 202–372–1402, email *environmental_standards@uscg.mil.* If you have questions about viewing the docket (USCG–2001–10486), call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Coast Guard established a standard for the allowable concentration of living organisms in ships' ballast water discharged in waters of the United States (77 FR 17254). The Coast Guard also established an approval process for ballast water management systems (77 FR 17254). These new regulations will aid in controlling the introduction and spread of nonindigenous species from ships' ballast water in waters of the United States. With the exception of this collection of information, the final rule becomes effective on June 21, 2012. In the final rule, the Coast Guard included a provision to allow vessel owners and operators to request an extension of their compliance date if they cannot practicably comply with the compliance date otherwise applicable to their vessels. This extension provision will give flexibility to vessel owners and operators to comply with the final rule.

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor a collection of information until the collection is approved by OMB. Accordingly, the preamble to the final rule stated that the Coast Guard would not enforce the collection of information requirements occurring under 33 CFR 151.1513 and 151.2036 until the collection of information request was approved by OMB, and also stated that the Coast Guard would publish a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On May 10, 2012, OMB approved the revision to the existing collection of information, OMB Control Number 1625–0069, entitled ''Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters.'' The approval for this collection of information expires on May 31, 2015.

Dated: June 6, 2012.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2012–14382 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0473]

RIN 1625–AA00

Safety Zone, Fireworks Display, Lake Superior; Cornucopia, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: Coast Guard Marine Safety Unit Duluth is establishing a temporary safety zone in the Siskiwit Bay area of Cornucopia, WI to help protect participants and spectators from a fireworks display taking place on June 30, 2012.

DATES: This rule will be effective from 9:00 p.m. to 11:00 p.m. on June 30, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0473]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Judson Coleman, Chief of Waterways management, MSU Duluth, Coast Guard; telephone 218–720–5286 ext 111, email *Judson.A.Coleman@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:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with fireworks displays, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would also be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 9:00 p.m. and 11:00 p.m. on June 30, 2012, a fireworks display will occur in the vicinity of Siskiwit Bay on Lake Superior in Cornucopia, WI. Based on accidents that have occurred in other Captain of the Port zones and the explosive hazards of fireworks, the Coast Guard has determined that fireworks launches proximate to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

C. Discussion of the Final Rule

Because of the aforementioned hazards, the Captain of the Port Duluth has determined that a temporary safety zone is necessary to ensure the safety of spectators and vessels during the launching of the Cornucopia, WI, fireworks display. The safety zone created by this rule will encompass all waters of the area bounded by a circle with a 700-foot radius surrounding the fireworks launch site with its center in position 46°51′35″ N, 091°06′10″ W.; at Cornucopia, WI. [DATUM: NAD 83].

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16 during the course of the event.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule will be enforced for only two hours over a single night, and will impact only the bay where the event will occur.

2. Impact on Small Entities

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

(1) This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Siskiwit Bay from 9:00 p.m. to 11:00 p.m. on June 30, 2012.

(2) This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective, and thus subject to enforcement, for only 2 hours. Vessel traffic could pass safely around the safety zone. Before the activation of the zone, we will issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions

annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T10–0473 is added as follows:

§ 165.T10–0473 Safety zone; Cornucopia Fireworks, Cornucopia, WI.

(a) *Location.* The following area is a temporary safety zone: All waters of Siskiwit Bay in Lake Superior, Cornucopia, Wisconsin, within a 700-foot radius of position 46°51′35″ N, 091°06′10″ W.; at Cornucopia, WI. (DATUM: NAD 83).

(b) *Effective period.* This regulation is effective and will be enforced from 9 p.m. to 11 p.m. on June 30, 2012. The Captain of the Port, Marine Safety Unit Duluth, or his on-scene representative may suspend enforcement of the safety zones at any time.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Marine Safety Unit Duluth, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Marine Safety Unit Duluth or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Marine Safety Unit Duluth or his on-scene representative to request permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Marine Safety Unit Duluth or his on-scene representative.

Dated: May 21, 2012.

K.R. Bryan,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2012–14380 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0492]

RIN 1625–AA00

Safety Zone; NOAA Vessel Rueben Lasker Launch, Marinette, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Menominee River in Marinette, WI. This zone is intended to restrict vessels from a portion of Menominee River during the launching of the NOAA vessel, Rueben Lasker, on June 16, 2012. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the launching of this large vessel.

DATES: This rule is effective from 10:30 a.m. to 12:00 p.m. on June 16, 2012.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* which are part of docket USCG–2012–0492 and are available online by going to *www.regulations.gov,* by typing the docket number in the ''SEARCH'' box and clicking ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. They are also available for inspection or copying at the Docket Management Facility in room W12–140 on the ground floor of the U.S. Department of Transportation, West Building, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email CWO Jon Grob, U.S. Coast Guard Sector Lake Michigan, at 414–747–7188 or *Jon.K.Grob@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. It would be impractical to publish an NPRM because the final details for this event were not received by the Coast Guard with sufficient time to allow for a public comment period. Thus, delaying the effective date of this rule to wait for a comment period to run would prevent the Coast Guard from performing its statutory function of protecting life on navigable waters and thus, would be impractical.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, a 30 day notice period would also be impractical.

B. Basis and Purpose

The NOAA vessel, Rueben Lasker, will be launched from shore to water on June 16, 2012. This event will take place in Marinette, WI. The Captain of the Port, Sector Lake Michigan, has determined that this launching poses significant risks to the boating public in the vicinity of the launch location.

C. Discussion of Rule

The Captain of the Port, Sector Lake Michigan, has determined that a safety zone is necessary to mitigate the aforementioned safety risks associated with the launching of NOAA's vessel. Thus, this temporary rule establishes a safety zone that encompasses all waters of the Menominee River, in the vicinity of Marinette Marine Corporation, between the Bridge Street Bridge located in position 45°06′12″ N, 087°37′34″ W and a line crossing the river perpendicularly passing through position 45°05′57″ N, 087°36′43″ W, in the vicinity of the Ansul Company. (DATUM: NAD 83). This safety zone will be effective from 10:30 a.m. to 12:00 p.m. on June 16, 2012.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Sector Lake Michigan, or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone around the boat launch will be relatively small and exist for relatively short time. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Menominee River between

10:30 a.m. and 12:00 p.m. on June 16, 2012.

This temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic should be minimal given the location and the time of year that this event is occurring. Furthermore, this safety zone will only be in effect for one and one half hours. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of The Port, Sector Lake Michigan, to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person in the the **FOR FURTHER INFORMATION CONTACT** section above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0492 to read as follows:

§ 165.T09–0492 Safety Zone; NOAA Vessel Rueben Lasker Launch, Marinette, Wisconsin.

(a) *Location.* This safety zone encompasses all U.S. navigable waters of the Menominee River, in the vicinity of Marinette Marine Corporation, between the Bridge Street Bridge located in position 45°06′12″ N, 087°37′34″ W and a line crossing the river perpendicularly passing through position 45°05′57″ N, 087°36′43″ W, in the vicinity of the Ansul Company. (DATUM: NAD 83).

(b) *Effective and enforcement period.* This rule is effective and will be enforced from 10:30 a.m. to 12:00 p.m. on June 16, 2012.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

(3) The ''designated representative'' of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The on-scene representative of the Captain of the Port, Sector Lake Michigan, will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

Dated: June 1, 2012.

M.W. Sibley,

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

[FR Doc. 2012–14468 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA–R06–OAR–2005–NM–0008; FRL–9684–5]

Approval and Promulgation of Implementation Plans; New Mexico; Minor New Source Review (NSR) Preconstruction Permitting Rule for Cotton Gins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve a revision to the applicable minor New Source Review (NSR) State Implementation Plan (SIP) for New Mexico submitted by the state of New Mexico on April 25, 2005, which incorporates a new regulation related to minor NSR preconstruction permitting for particulate matter emissions from cotton ginning facilities. The submitted Cotton Gin regulation provides an alternative preconstruction process for cotton ginning facilities that will emit no more than 50 tons per year of particulate matter. The new regulation prescribes, at a minimum, best technical control equipment standards, opacity limitations, and fugitive dust management plan requirements to minimize particulate matter emissions and establishes a minimum setback distance from the gin to the property line. EPA has determined that this SIP revision complies with the Clean Air Act and EPA regulations and is consistent with EPA policies. This action is being taken under section 110 of the Act.

DATES: This direct final rule is effective on August 13, 2012 without further notice, unless EPA receives relevant adverse comment by July 13, 2012. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2005–NM–0008, by one of the following methods:

(1) *www.regulations.gov:* Follow the on-line instructions for submitting comments.

(2) *Email:* Ms. Ashley Mohr at *mohr.ashley@epa.gov.*

(3) *Fax:* Ms. Ashley Mohr, Air Permits Section (6PD–R), at fax number 214–665–6762.

(4) *Mail:* Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(5) *Hand or Courier Delivery:* Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2005–NM–0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public 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 along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which 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 *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

New Mexico Environment Department, Air Quality Bureau, 1301 Siler Road, Building B, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's direct final action, please contact Ms. Ashley Mohr (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–7289; fax number (214) 665–6762; email address *mohr.ashley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document the following terms have the meanings described below:

- ''we'', ''us'' and ''our'' refer to EPA.
- ''Act'' and ''CAA'' mean the Clean Air Act.
- ''40 CFR'' means Title 40 of the Code of Federal Regulations—Protection of the Environment.
- ''SIP'' means the State Implementation Plan established under section 110 of the Act.
- ''NSR'' means new source review.
- ''TSD'' means the Technical Support Document for this action.
- ''NAAQS'' means any national ambient air quality standard established under 40 CFR part 50.

Table of Contents

I. What action is EPA taking?
II. What did New Mexico submit?
A. April 25, 2005, SIP Revision Submittal
B. What is the Cotton Gin regulation?
III. EPA's Evaluation
A. Technical Review of April 25, 2005, SIP Revision Submittal
B. CAA 110(l) Analysis
IV. Final Action
V. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are taking direct final action to approve a revision to the applicable minor New Source Review (NSR) State Implementation Plan (SIP) for New Mexico submitted by the state of New Mexico on April 25, 2005, which incorporates a new regulation related to minor NSR preconstruction permitting for cotton ginning facilities that are minor stationary sources with particulate matter emissions no more than 50 tons per year. The April 25, 2005, SIP submittal includes the incorporation of the new Cotton Gin regulation in 20.2.66 of the New Mexico Administrative Code (NMAC), also known as Part 66.

Our technical analysis of the April 25, 2005, SIP rule revision submittal has found that the new Part 66, containing the Cotton Gin regulation, meets the CAA and 40 CFR Part 51. Therefore, EPA is taking direct final action to approve the incorporation of 20.2.66 NMAC, as submitted on April 25, 2005, into the New Mexico minor NSR SIP. We provide a summary of the reasoning comprising our evaluation in this rulemaking, as well as, a more detailed evaluation and analysis in the Technical Support Document (TSD) for this rulemaking.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. As explained in our TSD, we are finding this action noncontroversial because the Cotton Gin regulation is an established limited-scope regulation providing an alternative minor NSR preconstruction permitting approach for cotton ginning facilities that are minor stationary sources of particulate matter emissions. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on August 13, 2012 without further notice unless we receive relevant adverse comment by July 13, 2012. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What did New Mexico submit?

A. April 25, 2005, SIP Revision Submittal

On April 25, 2005, the Governor of New Mexico submitted a revision to incorporate 20.2.66 NMAC—Cotton Gins into the New Mexico SIP. This submittal includes the following:

- *Addition of the following sections:* 20.2.66.1 NMAC—Issuing Agency; 20.2.66.2 NMAC—Scope; 20.2.66.3 NMAC—Statutory Authority; 20.2.66.4 NMAC—Duration; 20.2.66.5 NMAC—Effective Date; 20.2.66.6 NMAC—Objective; 20.2.66.7 NMAC—Definitions; 20.2.66.9 NMAC—Documents; 20.2.66.200 NMAC—Issuance of Permit under 20.2.72 NMAC; 20.2.66.201 NMAC—Permit Application Requirements; and 20.2.66.202 NMAC—Permit Requirements.
- Portions of the New Mexico Air Quality Control Act (AQCA), specifically the 2003 amendments to Section 74–2–7(C) and (O), related to permit issuance for cotton ginning facilities, as evidence of the legal authority for the State to adopt 20.2.66 NMAC—Cotton Gins.

A summary of EPA's evaluation of the Cotton Gin regulation and the basis for this action is discussed in section III of this preamble. The TSD includes a detailed evaluation of the April 25, 2005, SIP submittal.

B. What is the Cotton Gin regulation?

The Cotton Gin regulation, found in Part 66, provides an alternative process for owners and operators of cotton ginning minor stationary sources, as defined in Part 66, to obtain a minor NSR preconstruction permit for particulate matter emissions. The New Mexico Environmental Department (NMED) adopted 20.2.66 NMAC in

response to 2003 amendments to the New Mexico Air Quality Control Act (AQCA), specifically, amendments to Sections 74–2–7(C) and (O). Sources that meet the cotton ginning facility definition defined in 20.2.66.7(C) and that elect to apply for a minor NSR preconstruction permit under Part 66, must meet the source-specific requirements contained in the Part, which include application requirements and permit requirements. A ''cotton ginning facility'' is defined in Part 66 as ''any facility that separates seed, lint, and trash from raw cotton, and bales lint cotton for further processing.'' To meet the definition of a ''cotton ginning facility,'' Part 66 also requires that the facility have the standard industrial classification code 0724 (cotton ginning) and the North American industrial standard classification code 11511 (cotton ginning). It must also have 50 tons per year or less of particulate matter emissions. A source that obtains a minor NSR preconstruction permit under Part 66 for its particulate matter emissions is also required to meet the applicable requirements contained in the SIP's 20.2.72 NMAC—Construction Permits (Part 72) to obtain a minor preconstruction permit for its other emissions.

Part 66 specifies permit application requirements, particulate matter emission control requirements, opacity limitations, fugitive dust plan requirements, operating and location restrictions, and inspection and recordkeeping requirements for cotton ginning facilities seeking a minor preconstruction permit under 20.2.66 NMAC. The ''best system'' to minimize particulate matter emissions was determined by NMED to be, at a minimum, technical control standards such as screens with a mesh size of 70 by 70 or finer (United States sieve) on low-pressure exhausts, and high-efficiency cyclone dust collectors on high-pressure exhausts. These control standards minimize particulate matter emissions. The new regulation also establishes minimum setback distance requirements for facilities obtaining a minor NSR preconstruction permit under Part 66. These requirements are specific to the control of emissions and minimization of impacts from particulate matter emissions from cotton gins emitting 50 tons per year or less, including particulate matter less than 10 microns in diameter (PM_{10}) and particulate matter less than 2.5 microns in diameter ($PM_{2.5}$). All other criteria pollutant emissions from cotton gins are required to be addressed via the requirements of the Part 72 preconstruction minor NSR permitting program that already is in the New Mexico SIP.

III. EPA's Evaluation

A. Technical Review of April 25, 2005, SIP Revision Submittal

The April 25, 2005, SIP revision submitted by New Mexico to incorporate Part 66 in the State's minor NSR SIP establishes an alternative minor NSR preconstruction permitting approach for cotton gins that are minor sources of 50 tons per year or less of particulate matter emissions. The alternative minor NSR preconstruction permitting process contained in the Cotton Gin regulation provides cotton ginning facilities with an option to obtain a minor NSR preconstruction permit via the current minor NSR SIP's preconstruction case-by-case permitting program (Part 72) for all its emissions or to obtain a SIP Part 72 minor NSR preconstruction permit for all of its emissions except for its particulate matter emissions, for which it can obtain a minor NSR preconstruction permit via the alternative process contained in Part 66. As previously mentioned, those cotton gin sources obtaining a minor NSR permit under Part 66 for their particulate matter emissions must also meet the applicable requirements of the SIP's Part 72 for all their other emissions. The Part 66 minor NSR preconstruction permitting process addresses particulate matter emissions from minor source cotton gins without requiring an air quality impact analysis demonstration, while the SIP's Part 72 rule addresses case-by-case preconstruction permitting determinations for all sources for all emissions and requires an analysis of the predicted air quality impact that generally is met by air dispersion modeling. As discussed later, EPA is finding that the submitted Part 66 is protective of the NAAQS and therefore no case-by-case air quality impact analysis is required for cotton gins covered under this rule.

As detailed in the TSD, the April 25, 2005, SIP submittal meets the completeness criteria established in 40 CFR part 51, Appendix V. In addition to the completeness review, the Cotton Gin regulation SIP submittal was evaluated against the applicable requirements contained in the Act and 40 CFR part 51. Section 110(a)(2)(C) of the Act requires, in part, that each implementation plan include a program to regulate the construction and modification of stationary sources, including a permit program as required by parts C and D of Title I of the Act, as necessary to assure that the NAAQS are achieved. Parts C and D, which pertain to prevention of significant deterioration (PSD) and nonattainment, respectively, address major NSR programs for stationary sources, and the permitting program for ''nonmajor'' (or ''minor'') stationary sources is also addressed by section 110(a)(2)(C) of the Act. We generally refer to the latter program as the ''minor NSR'' program. A minor stationary source is a source whose ''potential to emit'' is lower than the major source applicability threshold for a particular pollutant defined in the applicable major NSR program.

EPA's implementing regulations for minor NSR SIP revision submissions required by section 110(a)(2)(C) are found at 40 CFR 51.160 and are intended to ensure that new source growth is consistent with maintenance of the NAAQS. Therefore, we evaluated the submitted new rule using the federal regulations under CAA section 110(a)(2)(C), which require each State to include a minor NSR program in its SIP. EPA regulations require that a minor NSR program include:

- A plan that ''must set forth legally enforceable procedures that enable'' the permitting agency to determine whether a minor source will cause or contribute to a violation of applicable portions of the control strategy, 40 CFR 51.160(a)(1), or interference with attainment or maintenance of a NAAQS within the state or a neighboring state, 40 CFR 51.160(a)(2).
- The procedures must provide for the submission, by the applicant, of such information on:

(1) The nature and amounts of emissions to be emitted by it or emitted by associated mobile sources;

(2) The location, design, construction, and operation of such facility, building, structure, or installation as may be necessary to permit the State or local agency to make the determination referred to in paragraph (a) of this section, 40 CFR 51.160(c) .

- The procedures must identify types and sizes of affected entities subject to review and must discuss ''the basis for determining which facilities will be subject to review,'' 40 CFR 51.160(e).

The provisions contained in the Cotton Gin regulation SIP submittal meet the requirements in 40 CFR 51.160(a)(1) and (2) that each plan include legally enforceable procedures to determine whether the construction or modification of a facility, building, structure, or installation, or the combination of these will result in: (1) A violation of the applicable portions of the control strategy; or (2) interference with attainment or maintenance of a

national standard in the state in which the proposed source (or modification) is located or in a neighboring state. See our TSD and section III.B of this notice for more details regarding how the Cotton Gin regulation complies with these requirements.

The Cotton Gin regulation SIP revision also meets the 40 CFR 51.160(c) requirements by requiring sources that apply for a minor NSR preconstruction permit using the alternative approach contained in Part 66 to provide information regarding the nature and amounts of emissions to be emitted and the location, design, construction, and operation of the facility in accordance with permit application requirements contained in Part 72. The minor NSR preconstruction permitting program contained in Part 72 is already part of the New Mexico SIP. The permit application content requirements are contained in Section 203 of Part 72 and are referenced as requirements of Part 66 in Section 201(A) of that Part.

The April 25, 2005, SIP revision also meets the 40 CFR 51.160(e) requirements by identifying the type of facility that will be subject to review under 40 CFR 51.160(a). New Mexico specifically identified that cotton ginning facilities meeting the definition contained in Part 66 may elect to utilize the alternative minor NSR permitting process contained in the Cotton Gin regulation. This includes the requirement that the cotton gin be a minor stationary source emitting 50 tons per year or less of particulate matter. The major source threshold for particulate matter for cotton ginning facilities is 250 tons per year. Cotton ginning facilities not meeting the definition are not allowed to utilize the alternative minor NSR permitting approach contained in Part 66. See the TSD for more details regarding our technical review of the April 25, 2005, SIP revision submittal.

40 CFR 51.160 requires that the minor NSR SIP revision submittal be enforceable. In particular, 40 CFR 51.160(a) requires that the SIP revision be enforceable in order to ensure that the issuance of the minor NSR permit will not cause or contribute to a violation of any SIP control strategy and will not interfere with attainment and maintenance of the NAAQS. The September 23, 1987, Memorandum from J. Craig Potter, Assistant Administrator for Air and Radiation, and Thomas L. Adams Jr., Assistant Administrator for Enforcement and Compliance Monitoring, entitled ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency'' provides EPA's guidance for assessing whether a SIP revision submittal is sufficiently enforceable. We find that the new regulation meets the requirements of section 40 CFR 51.160(a), which requires that SIP revision submittals be enforceable. The submitted regulation specifically identifies the covered source; ensures that the permit issued by NMED will contain specific limits to ensure that the cotton gin's potential to emit remains below major source thresholds for particulate matter emissions; and includes monitoring, recordkeeping, and reporting (MRR) provisions that establish how compliance will be determined and ensure that the PM_{10} and $PM_{2.5}$ NAAQS are protected. For these reasons, EPA finds that the submitted regulation will ensure attainment and maintenance of the particulate matter NAAQS and will prevent violations of any of the New Mexico SIP's control strategies. Under this submitted regulation, the State is able to determine if there will be an adverse impact on air quality.

EPA has recognized, for certain classes of sources, that it is appropriate for states to establish enforceable emission limits that serve to limit potential to emit through exclusionary rules that apply to certain source categories. *See,* Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, Office of Air Quality Planning and Standards (OAQPS) entitled ''Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound Use,'' dated October 15, 1993; *See also,* Memorandum from John Seitz, Director, OAQPS entitled ''Approaches to Creating Federally-Enforceable Emission Limits,'' dated November 3, 1993. EPA also issued a guidance memorandum that provides guidance for addressing the minor source status under the Act for lower-emitting sources in eight source categories, including cotton gins. *See,* April 14, 1998, Memorandum entitled, ''Potential to Emit (PTE) Guidance for Specific Source Categories'' (hereinafter the 1998 memoranda). It provides technical information useful in devising practicable enforceable PTEs for small sources and identifies sources that are ''true minors.''

Although not an exclusionary rule, the practicable enforceability criteria in the guidance memoranda serve as a way to measure whether the submitted regulation is practicably enforceable and therefore can ensure that issuance of the minor NSR permit will not cause or contribute to a violation of any SIP control strategy and will not interfere with attainment and maintenance of the NAAQS. The submitted regulation clearly identifies the category of sources that qualify for coverage. Moreover, EPA has found that cotton gins are technically justified for a streamlined approach (the 1998 memoranda). The regulation provides that a source notify the State of its coverage under the regulation by submitting a preconstruction application. The application must propose maximum allowable annual and hourly emissions and include proposed limitations to hours of operation and other limitations that will result in allowable emissions of no more than 50 tons per year. The NMED is authorized to modify any of the proposed limitations and controls to be more stringent, as necessary to ensure that applicable requirements are met. Therefore, the regulation ensures that the applicable emission limits will be clearly specified by the NMED in the issued permit. The rule also includes terms and conditions for monitoring, recordkeeping, reporting, and testing requirements, as appropriate. The applicant is required to comply with the limits in the Part 66 issued permit. Violations of the emission threshold imposed by the submitted regulation can constitute violations of permitting and SIP requirements.[1]

B. CAA 110(l) Analysis

Section 110(l) of the Clean Air Act states:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of this Act.

Thus, under section CAA 110(l), this minor NSR SIP revision submittal must not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. EPA is approving the revision to the New Mexico minor NSR SIP incorporating the cotton gin minor NSR regulation because, based on our analysis, we have found that Part 66 does not interfere with attainment, reasonable further progress, or any other requirement of the Act.

As previously stated, the provisions contained in Part 66 include

[1] Under 20.2.72.218 NMAC, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of the terms or conditions of the permit. This enforcement measure applies notwithstanding any other provisions in the New Mexico SIP.

requirements and operational restrictions for cotton ginning facilities seeking a minor NSR permit that are specific to the control of particulate matter emissions and minimization of impacts from those emissions. All other pollutants will continue to be addressed via the requirements of the SIP's Part 72 minor NSR preconstruction permitting program. Therefore, EPA evaluated the Cotton Gin regulation for its impact on attainment and reasonable further progress for PM_{10} and $PM_{2.5}$ in a CAA 110(l) analysis. The submitted regulation only affects one specific source category, not unrelated emission sources. Therefore, there will be no cumulative effect of numerous unrelated sources. Moreover, there currently are only four cotton gins operating in the State, and only one of these four facilities has received the alternative minor NSR permit for its particulate matter emissions. The cotton gin that received the alternative minor NSR permit for its particulate matter emissions is located in Dona Ana County, but it is outside the boundaries of the Anthony PM_{10} nonattainment area. All four cotton gins are minor stationary sources of particulate matter.

A cotton gin obtaining a minor NSR permit under this new rule must meet, at a minimum, the technical equipment requirements and management practices in the rule. All burr hoppers must be completely enclosed. There can be no visible fugitive emissions from any door, vent, or window. Emissions from the gin yard, storage piles, roads, and vehicles must be controlled by watering, paving and cleaning, surfactants, or other equivalent means. There are opacity limitations on the cyclones, low pressure exhausts, and fuel-burning equipment. High pressure exhausts must be controlled by the use of a high efficiency cyclone dust collector and are subject to an opacity limitation. Low pressure exhausts must be controlled by the use of screens with a mesh size of 70 by 70 or finer (United States sieve), or the use of perforated condenser drums with holes not exceeding 0.045 inches in diameter and are subject to an opacity limitation. There must be a posted speed limit for all vehicles on unpaved haul roads and in unpaved yard areas of 10 miles per hour or less. Fuel burning equipment is limited to certain fuels. The NMED has the authority to require even more stringent requirements than those set forth above. Furthermore, under the submitted regulation, a cotton gin obtaining a minor NSR permit under this regulation must be located at a minimum of 10 feet in all directions from the facility's property boundary. The cotton gin must also be at least 0.25 miles from any existing state park, recreation area, or school and at least three miles from any Class I area. The distance from the cotton gin to the property boundary must also meet minimum requirements based on the facility's PM_{10} emissions. These set back distance limitations are based upon the allowable emissions rather than production rates, thereby encouraging gins to use more stringent technical controls. The NMED has the authority to establish a more stringent set back limitation in any issued permit under this new rule, as necessary, to ensure that the facility will meet all other applicable requirements.

The entire state of New Mexico was designated attainment for the 1997 $PM_{2.5}$ NAAQS. Additionally, the entire state of New Mexico was designated attainment for the 2006 $PM_{2.5}$ NAAQS. The only area designated nonattainment for the PM_{10} NAAQS in New Mexico is Anthony, which is located in Dona Ana County. Dona Ana County does contain cotton gins, but these gins are located outside the boundaries of the Anthony designated nonattainment area. In New Mexico's November 8, 1991 SIP revision for the Anthony PM_{10} nonattainment area, the State demonstrated that PM_{10} emissions from existing cotton gins located in Dona Ana County did not have a significant impact on air quality in Anthony. As a result, New Mexico did not include control requirements for any point sources, including cotton gins, in its PM_{10} SIP revision for Anthony. EPA approved the PM_{10} SIP for Anthony on September 9, 1993. Annual emissions inventory information compiled by NMED for inventory year 2002 shows that annual emissions of PM_{10} resulting from cotton gins located in Dona Ana County are much less than the total PM_{10} emissions from both agricultural and non-agricultural emission sources in the county. The 2002 Dona Ana County emissions inventory data also shows that annual emissions of $PM_{2.5}$ from cotton gins are much less that the total $PM_{2.5}$ emissions. There also is no new evidence that new minor source cotton gins would have a significant impact on air quality in Anthony. There is no evidence of growth in cotton gins since 1991, the date of the PM_{10} SIP revision that EPA approved; in fact, at least two cotton gins have permanently shut down. Therefore, we expect that the impacts of PM_{10} emissions from cotton gins on air quality in Dona Ana County, including in Anthony, would be small relative to the impacts from other emission sources. Ginning activity in New Mexico, including in Dona Ana County, is not expected to experience significant growth from current activity levels. When the Cotton Gin regulation was developed and adopted by New Mexico in 2005, seven commercial gins were registered in New Mexico, with six of the registered gins actually operating. Since 2005, three of these seven cotton gins have closed. Only one of the remaining four cotton gins is located in Dona Ana County. The current ginning capacity in New Mexico is more than sufficient to handle the State's cotton production and annual trends show decreasing cotton production since the State's adoption of the Cotton Gin regulation. Moreover, of the four currently operational cotton ginning facilities located in New Mexico, only one has received a permit through the Part 66 permitting process. Furthermore, if a new minor cotton gin source wished to construct in Dona Ana County and applied for a permit via the Part 66 alternative minor NSR preconstruction permitting process, the permit would limit the emissions of PM_{10} or $PM_{2.5}$ to not more than 50 tons per year.

For all other areas of New Mexico located outside of the Anthony PM_{10} nonattainment area, the Cotton Gin regulation is evaluated to determine if the SIP revision submission will interfere with attainment for $PM_{2.5}$ or PM_{10}. As previously mentioned, based on the State's current ginning capacity and cotton production trends, cotton ginning activity in New Mexico is not expected to experience significant growth from current activity levels. If a new minor cotton gin source is to be located in New Mexico, and the owner chooses the Part 66 alternative method, the cotton gin facility must apply for a minor NSR preconstruction permit under Part 66 and the permit will limit the emissions of particulate matter to not more than 50 tons per year. In addition, a source applying for a minor preconstruction permit under Part 66 is required to meet at a minimum the control requirements contained in the Cotton Gin regulation, which include control equipment requirements for high and low pressure exhausts, opacity limitations, implementation requirements for a fugitive dust management plan, fuel usage limitations for any fuel burning equipment, and location restrictions based on the facility's emission rates. Prior to the adoption of Part 66, New Mexico did not have specific regulations or control requirements for cotton ginning facilities. Instead, control requirements for new and modified cotton ginning facilities were established through the

existing case-by-case preconstruction permitting program in the SIP (Part 72 for minor sources). The adoption of Part 66 establishes specific control requirements for particulate matter emissions that are not contained in the current New Mexico SIP for cotton ginning facilities seeking a minor preconstruction permit via the alternative minor NSR preconstruction permit approach. New Mexico also retains the authority and procedures to amend the Part 66 Cotton Gin regulation if federal standards or requirements change and the Cotton Gin regulation is no longer adequate to ensure that applicable requirements are met.

Our evaluation of the April 25, 2005, SIP submittal with respect to both PM_{10} nonattainment and attainment areas and to $PM_{2.5}$ impacts demonstrates compliance with section 110(l) of the CAA and provides further basis for approval of this SIP revision.

IV. Final Action

EPA is taking direct final action to approve the revision to the New Mexico SIP submitted on April 25, 2005. Specifically, EPA is approving the incorporation of the new Cotton Gin regulation in 20.2.66 NMAC, which establishes an alternative minor NSR preconstruction permitting process for issuing air quality permits to cotton ginning facilities for particulate matter emissions. EPA is finding that the revisions to the New Mexico Air Quality Control Act (AQCA) contained in the April 25, 2005, submittal, specifically the 2003 amendments to Section 74–2–7(C) and (O), related to permit issuance for cotton ginning facilities, provide sufficient legal authority for the NMED to adopt and enforce the 20.2.66 NMAC. See 40 CFR 51.230 and 50.231.

EPA is not acting on other severable portions of the April 25, 2005, SIP submittal.[2] Specifically, EPA is not taking action on the revisions submitted on April 25, 2005, to 20.2.72 NMAC—Construction Permits; 20.2.73 NMAC—Notice of Intent and Emissions Inventory Requirements; and 20.2.75 NMAC—Construction Permit Fees. These revisions have been or will be addressed by EPA in separate SIP revision reviews and rule actions.

[2] By severable, we mean that the portions of the SIP revisions related to the Cotton Gin regulation can be implemented independently of the remaining portions of the submittal, without affecting the stringency of the submitted rules. In addition, the remaining portions of the submittal are not necessary for approval of the provisions of 20.2.66 NMAC.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 30, 2012.

Samuel Coleman,

Acting Regional Administrator, EPA Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

■ 2. The table in section 52.1620(c) entitled ''EPA Approved New Mexico Regulations'' is amended by adding a new entry for Part 66 (20.2.66 NMAC) in numerical order by part number to read as follows.

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW MEXICO REGULATIONS

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				
*	*	*	*	*
Part 66	Cotton Gins	4/7/2005	6/13/2012 [Insert *FR* page number where document begins].	
*	*	*	*	*

* * * * *

[FR Doc. 2012–14154 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2010–0717; FRL 9661–3]

Approval and Promulgation of Implementation Plans; Arizona; Update to Stage II Gasoline Vapor Recovery Program; Change in the Definition of ''Gasoline'' To Exclude ''E85''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Air Act, EPA is taking final action to approve certain revisions to the Arizona State Implementation Plan submitted by the Arizona Department of Environmental Quality. These revisions concern amendments to the statutory and regulatory provisions adopted by the State of Arizona to regulate volatile organic compound emissions from the transfer of gasoline from storage tanks to motor vehicle fuel tanks at gasoline dispensing sites, i.e., stage II vapor recovery. The revisions also amend the definition of ''gasoline'' to explicitly exclude E85 and thereby amend the requirements for fuels available for use in the Phoenix metropolitan area as well as the requirements for vapor recovery. In approving the revisions, EPA is taking final action to waive the statutory stage II vapor recovery requirements at E85 dispensing pumps within the Phoenix metropolitan area. Lastly, EPA is taking final action to correct an EPA rulemaking that approved a previous version of the Arizona rules regulating these sources and to thereby identify the appropriate regulatory agency and specific rules that were previously approved and incorporated by reference into the Arizona State Implementation Plan.

DATES: *Effective Date:* This rule is effective on July 13, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2010–0717 for this action. The index to the docket is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: For further information on the revisions to the Arizona State Implementation Plan submitted by the Arizona Department of Environmental Quality, contact Mr. Andrew Steckel, EPA Region IX, 75 Hawthorne Street (AIR–4), San Francisco, CA 94105, phone number (415) 947–4115, fax number (415) 947–3579, or by email at *steckel.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. EPA's Proposed Action
A. The State's Submittal
B. Regulatory Context
C. EPA's Evaluation of SIP Submittal and Proposed Action
D. Proposed Correction of Previous Rulemaking
II. Public Comments and EPA Responses
III. Final Action
IV. Statutory and Executive Order Reviews

I. EPA's Proposed Action

A. The State's Submittal

On October 3, 2011 (76 FR 61062), we proposed to approve a revision to the Arizona State Implementation Plan (SIP) submitted to EPA on September 21, 2009 by the Arizona Department of Environmental Quality (ADEQ). The purpose of the SIP revision is to update the gasoline vapor recovery program that was originally submitted and approved by EPA in 1994 to meet certain applicable requirements of the Clean Air Act, as amended in 1990 (CAA or ''Act'').[1] The specific revisions include statutory provisions and administrative rules regulating the emissions of volatile organic compounds (VOC) due to the transfer of gasoline from storage tanks (typically underground) to motor vehicle fuel tanks at gasoline stations in the Phoenix metropolitan area. The statutory provisions and administrative rules are contained in enclosures 3 and 4 of ADEQ's September 21, 2009 SIP revision submittal package.[2]

ADEQ's submittal represents an update to the stage II requirements but is comprehensive in that the submitted

[1] Gasoline dispensing pump vapor control devices, commonly referred to as ''stage II'' vapor recovery, are systems that control VOC vapor releases during the refueling of motor vehicles. This process takes the vapors normally emitted directly into the atmosphere when pumping gas and recycles them back into the fuel storage tank, preventing them from polluting the air. For more information on stage II vapor recovery systems, please see EPA's proposed rule, ''Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver,'' 76 FR 41731, at 41734 (July 15, 2011).

[2] By letter dated April 12, 2011, ADEQ substituted the statutes and rules in enclosures 3 and 4 as submitted on September 21, 2009 with official, published versions of the same statutes and rules in keeping with the requirements. ADEQ did so in response to an EPA request for the official, published versions of the statutes and rules to comply with the requirements established by the Office of the Federal Register for incorporating such materials by reference into the Code of Federal Regulations.

statutory and regulatory provisions also address general requirements related to stage I vapor recovery.[3] While ADEQ's submittal relates almost entirely to the State's vapor recovery program, it also amends the State's fuels program by amending the definition of the term ''gasoline'' to exclude ''E85,'' [4] a change that affects both the gasoline fuels program established for the Phoenix metropolitan area and the stage II vapor recovery program because both programs now rely on that particular definition. In our October 3, 2011 proposed rule, we concluded that ADEQ's September 21, 2009 SIP revision submittal contains adequate documentation of public notice, opportunity for comment, and a public hearing on the proposed SIP revision (see enclosure 5 of the submittal) and that the public participation materials submitted by ADEQ demonstrate compliance with the procedural requirements set forth in section 110(l) of the CAA.

Table 1 lists the statutory provisions, and Table 2 lists the administrative rules, that were submitted by ADEQ on September 21, 2009 and that we are approving in today's action.

TABLE 1—SUBMITTED STATUTORY PROVISIONS

Arizona revised statutes	Title	Submitted
Title 41, chapter 15, article 1, section 41–2051	Definitions: subsection 6 (''Certification''), subsection 10 (''Department''), subsection 11 (''Diesel fuel''), subsection 12 (''Director''), and subsection 13 (''E85'').	09/21/09
Title 41, chapter 15, article 6, section 41–2121	Definitions: subsection 5 (''Gasoline'')	09/21/09
Title 41, chapter 15, article 7, section 41–2131	Definitions: subsection 1 (''Annual throughput''), subsection 2 (''Clean air act''), subsection 3 (''Gasoline dispensing site''), subsection 4 (''Stage I vapor collection system''), subsection 5 (''Stage II vapor collection system''), and subsection 6 (''Vapor control system'').	09/21/09
Title 41, chapter 15, article 7, section 41–2132	Stage I and stage II vapor recovery systems	09/21/09
Title 41, chapter 15, article 7, section 41–2133	Compliance schedules	09/21/09

TABLE 2—SUBMITTED RULES

Arizona administrative code	Rule title	Effective date (for state purposes)	Submitted
Title 20, chapter 2, article 1, section R20–2–101	Definitions	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–901	Material Incorporated by Reference	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–902	Exemptions	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–903	Equipment and Installation	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–904	Application Requirements and Process for Authority to Construct Plan Approval.	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–905	Initial Inspection and Testing	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–907	Operation	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–908	Training and Public Education	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–909	Recordkeeping and Reporting	10/08/98	09/21/09
Title 20, chapter 2, article 9, section R20–2–910	Annual Inspection and Testing	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–911	Compliance Inspections	06/05/04	09/21/09
Title 20, chapter 2, article 9, section R20–2–912	Enforcement	06/05/04	09/21/09

Under Arizona law, the principal stage II vapor recovery requirements are found in Arizona Revised Statutes (ARS) section 41–2132 (''Stage I and stage II vapor recovery systems''), which requires gasoline dispensing sites to be equipped with a stage II vapor collection system within ''an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under § 107(d) of the clean air act, area A or other geographical area * * *.'' ARS section 41–2132(C). ''Area A'' is defined in ARS section 49–541 and it includes all of the metropolitan Phoenix former 1-hour ozone nonattainment area plus additional areas in Maricopa County to the north, east, and west, as well as small portions of Yavapai County and Pinal County.

ARS 41–2132 also provides an exemption for gasoline dispensing sites with a throughput of less than 10,000 gallons per month or less than 50,000 gallons per month in the case of an independent small business marketer as defined in section 324 of the CAA, and for gasoline dispensing sites that are located on a manufacturer's proving ground. ARS 41–2133 sets forth certain compliance schedules related to the stage II vapor recovery requirements in ARS 41–2132.

[3] ''Stage I'' vapor recovery refers to the collection of VOC emissions expelled from underground storage tanks at gasoline stations when being refilled by tank trucks. The Maricopa County Air Quality Department (MCAQD) implements its own stage I vapor recovery regulation within the Phoenix metropolitan area, Regulation III, Rule 353 (''Transfer of Gasoline into Stationary Storage Dispensing Tanks''). EPA approved MCAQD rule 353 and incorporated it into the Arizona SIP. See 61 FR 3578 (February 1, 1996). MCAQDM's stage I vapor recovery program and related rule are not affected by today's proposed action.

[4] E85 is a motor vehicle fuel that is a blend of as little as 15 percent gasoline and up to 85 percent ethanol. (In wintertime applications, the ratio may be 30 percent gasoline and 70 percent ethanol.) E85 can only be used in specially designed FFVs, which have mostly been manufactured since 1998. Since these are newer vehicles, most of them are equipped with ORVR, and every FFV built today has ORVR. Thus, most vehicles refueling at E85 dispensing pumps are already having their evaporative emissions captured, as in the cases of late model rental cars refueling at rental car facilities and newly manufactured cars being fueled for the first time at automobile assembly plants.

The stage II vapor recovery requirements in ARS 41–2132 rely upon the definitions of certain terms, such as ''gasoline,'' ''stage II vapor collection system,'' and ''E85,'' among others, which are codified in ARS sections 41–2015, 41–2121, and 41–2131, and ADEQ included the relevant definitions, along with ARS sections 41–2132 and 41–2133, in the SIP revision submittal dated September 21, 2009. See table 1 of this document. The definition of ''gasoline,'' which is codified in paragraph (5) of ARS 41–2121, specifically excludes ''diesel fuel'' and ''E85.''

ARS section 41–2132(G) directs the Arizona Department of Weights and Measures (ADWM) to adopt rules that establish standards for the installation and operation of stage I and stage II vapor recovery systems. In 1994, EPA approved an earlier version of ADWM's rules for stage II vapor recovery. See 59 FR 54521 (November 1, 1994). Since then, in addition to renumbering and recodifying the rules, ADWM has amended the vapor recovery rules to delete, modify, and add certain definitions; to approve use of certain new test procedures developed by the California Air Resources Board (CARB); to include general requirements for stage I vapor recovery systems; to add exemptions for motor raceways, motor vehicle proving grounds, and marine and aircraft refueling facilities; to clarify and expand application requirements; and to enhance compliance-related provisions.

ADWM's rules for such systems are now codified at title 20, chapter 2, article 9 (''Gasoline Vapor Recovery''), of the Arizona Administrative Code (AAC). These rules rely upon certain definitions in AAC, title 20, chapter 2, article 1 (''Administration and Procedures''), section R20–2–101 (''Definitions''). ADEQ submitted these rules and definitions to EPA as part of the stage II SIP revision dated September 21, 2009—see table 2 of this document.

In our October 3, 2011 proposed rule, we also explained that in our 1994 final rule approving an earlier version of ADWM's vapor recovery rules, we made an error in how we codified the stage II vapor recovery rules into the Arizona SIP, and were thus proposing to correct that error. Please see our October 3, 2011 proposed rule at pages 61063 and 61064 for additional information on these topics.

B. Regulatory Context

Under CAA section 182(b)(3), stage II vapor recovery systems are required to be used at larger gasoline dispensing facilities located in Serious, Severe, and Extreme nonattainment areas for ozone.[5] More specifically, the Act specifies that such systems be installed at any facility that dispenses more than 10,000 gallons of gasoline per month, or, in the case of an independent small business marketer (as defined in CAA section 324), any facility that dispenses more than 50,000 gallons of gasoline per month. Based on deadlines established in the Act, within 24 months from the effective date of the initial area designation and classification, states must adopt a stage II program into their SIPs, and the controls must be installed according to specified deadlines following state rule adoption. For existing facilities the installation deadlines depend on the date the facilities were built and the monthly volume of gasoline dispensed. *See* CAA sections 182(b)(3)(A)–(B), and 324(a)–(c).[6]

However, the CAA provides discretionary authority to the EPA Administrator to, by rule, revise or waive the section 182(b)(3) stage II requirement after the Administrator determines that On-Board Refueling Vapor Recovery (ORVR) is in widespread use throughout the motor vehicle fleet. *See* CAA section 202(a)(6). ORVR consists of an activated carbon canister installed in the vehicle into which vapors being expelled from the vehicle fuel tanks are forced to flow. There the vapors are captured by the activated carbon in the canister. When the engine is started, the vapors are drawn off of the activated carbon and into the engine where they are burned as fuel. EPA promulgated ORVR standards on April 6, 1994, 59 FR 16262.

EPA first began the phase-in of ORVR by requiring that 40 percent of passenger cars manufactured in model year 1998 be equipped with ORVR. The ORVR requirement for passenger cars was increased to 100 percent by model year 2000. Phase-in continued for other vehicle types and ORVR has been a requirement on virtually all new gasoline-powered motor vehicles (passenger cars, light trucks, and complete[7] heavy-duty gasoline powered vehicles under 10,000 lbs gross vehicle weight rating (GVWR)) sold since model year 2006. *See* 40 CFR part 86. Currently, ORVR-equipped vehicles comprise approximately 67 percent of the in-service vehicle fleet nationwide, and account for around 76 percent of the vehicle miles traveled (VMT) in the nationwide fleet. The percentage of non-ORVR vehicles and the percentage of VMT driven by those vehicles declines each year as these older vehicles wear out and are removed from service. Since certain vehicles are not required to have ORVR, including motorcycles and incomplete heavy-duty gasoline powered trucks chassis, under current requirements the nationwide motor vehicle fleet would never be entirely equipped with ORVR but these vehicles account for less than 2 percent of national annual highway gasoline consumption.

The CAA anticipates that, over the long-term, ORVR will reduce the benefit from, and the need for, stage II vapor recovery systems at gasoline dispensing sites in ozone nonattainment areas, and as noted above, section 202(a)(6) of the CAA allows EPA to revise or waive the application of stage II vapor recovery requirements for areas classified as Serious, Severe, or Extreme for ozone, as appropriate, after such time as EPA determines that ORVR systems are in widespread use throughout the motor vehicle fleet. CAA section 202(a)(6) does not specify which motor vehicle fleet must be the subject of a widespread use determination before EPA may revise or waive the section 182(b)(3) stage II requirement. Nor does the CAA identify what level of ORVR use in the motor vehicle fleet must be reached before it is ''widespread.'' To date, EPA has issued two memoranda addressing when ORVR widespread use might be found for particular fleets.[8]

[5] *See* CAA section 182(b)(3), 42 U.S.C. 7511a(b)(3). Originally, the section 182(b)(3) stage II requirement also applied in all Moderate ozone nonattainment areas. However, under section 202(a)(6) of the CAA, 42 U.S.C. 7521(a)(6), the requirements of section 182(b)(3) no longer apply in Moderate ozone nonattainment areas after EPA promulgated ORVR standards on April 6, 1994, 59 FR 16262, codified at 40 CFR parts 86 (including 86.098–8), 88 and 600. Under implementation rules issued in 2004 for the 1997 8-hour ozone standard, EPA retained the stage II-related requirements under section 182(b)(3) as they applied for the 1-hour ozone standard. 40 CFR 51.900(f)(5).

[6] Section 182(b)(3)(B) has the following effective date requirements for implementation of stage II after the adoption date by a state of a stage II rule: 6 months after adoption of the state rule, for gas stations built after the enactment date (which for newly designated areas would be the designation date); 1 year after adoption date, for gas stations pumping at least 100,000 gal/month based on average monthly sales over 2-year period before adoption date; 2 years after adoption, for all others.

[7] For purposes of ORVR applicability, a ''complete'' vehicle means a vehicle that leaves the primary manufacturer's control with its primary load carrying device or container attached.

[8] ''Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Vapor Recovery is Demonstrated,'' memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsirigotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated December 12, 2006 (''2006 Page/Oge Memorandum''); and ''Removal of Stage

Continued

EPA expects the possibility of different rates of implementation of ORVR across different geographic regions and among different types of motor vehicle fleets within any region. Given this, EPA does not believe that CAA section 202(a)(6) must be read narrowly to allow a widespread use determination and waiver of the stage II requirement for a given area or area's fleet only if ORVR use has become widespread through the entire United States, or only if ORVR use has reached a definite level in each area. Rather, EPA believes that section 202(a)(6) allows the Agency to apply the widespread use criterion to either the entire motor vehicle fleet in a State or nonattainment area, or to special segments of the overall fleet for which ORVR use is shown to be sufficiently high, and to base widespread use determinations on differing levels of ORVR use, as appropriate. EPA also believes that the Act allows the Agency to use an area-specific rulemaking approving a SIP revision to issue the section 202(a)(6) waiver for a relevant fleet in a nonattainment area.

One metric that EPA has considered in determining whether ORVR use is widespread within a given motor vehicle fleet considers when VOC emissions resulting from the application of ORVR controls alone equal the VOC emissions when both stage II vapor recovery systems and ORVR controls are used, after accounting for incompatibility excess emissions. The incompatibility excess emissions factor relates to losses in control efficiency when certain types of stage II and ORVR are used together. One metric previously discussed by EPA for widespread use in distinct and unique situations was that widespread use will likely have been reached when the percentage of motor vehicles in service with ORVR, the vehicle miles traveled (VMT) by ORVR-equipped vehicles, or the gasoline dispensed to ORVR-equipped vehicles reaches 95 percent. See the 2006 Page/Oge Memorandum, page 2. Application of the 95 percent criterion could lead to, for example, waiver of stage II vapor recovery requirements at gasoline dispensing sites that exclusively fuel new automobiles at assembly plants and rental cars at rental car facilities given the high percentage (essentially 100%) of ORVR-equipped vehicles associated with such facilities.

Recently, EPA proposed criteria for determining whether ORVR is in ''widespread use'' for purposes of controlling motor vehicle refueling emissions throughout the motor vehicle fleet. See 76 FR 41731 (July 15, 2011). In EPA's July 15, 2011 action, EPA also proposed criteria that would establish June 30, 2013 as the date on with ''widespread use'' will occur nationally, and the date on which a nationwide waiver of stage II gasoline vapor recovery systems will be effective.

EPA, after considering public comments, intends to take final action regarding the July 15, 2011 proposal to establish a nationwide date for determining when ORVR is in ''widespread use'' and for waiving the stage II requirement. In the proposed rule, EPA stated that it intends to provide that individual states may submit SIP revisions that demonstrate that ORVR widespread use has occurred (or will occur) on a date earlier than the date identified in the final rule for areas in their states, and to request that the EPA revise or waive the section 182(b)(3) requirement as it applies to only those areas. See 76 FR at 41733. Consistent with EPA's July 15, 2011 proposal to allow states to submit such SIP revisions, EPA is taking final action today to approve an area-specific revision to the Arizona SIP and to approve a waiver for a specific portion of the motor vehicle fleet, namely flexible fuel vehicles refueled with E85 gasoline blend, in the Phoenix metropolitan area.

As explained in our October 3, 2011 proposed rule, the ''Phoenix area,'' defined by the Maricopa Association of Governments' (MAGs') urban planning area boundary (but later revised to exclude the Gila River Indian Community at 70 FR 68339 (November 10, 2005)), was classified as a ''Moderate'' nonattainment area for the 1-hour ozone national ambient air quality standard (NAAQS) and later reclassified as ''Serious'' for the 1-hour ozone standard. See 56 FR 56694, at 56717 (November 6, 1991) and 62 FR 60001 (November 6, 1997). As noted above, section 182(b)(3) of the Act required States with ozone nonattainment areas such as the Phoenix area to adopt and submit a SIP revision requiring gasoline dispensing facilities to install and operate stage II vapor recovery equipment, and in response, ADEQ submitted the statutory provisions and rules establishing stage II vapor recovery requirements in the Phoenix area. EPA approved the stage II vapor recovery rules as a revision to the Arizona SIP. See 59 FR 54521 (November 1, 1994). We are taking final action today to approve a SIP revision that updates the stage II vapor recovery requirements for the Phoenix metropolitan area and that waives stage II vapor recovery requirements at E85 dispensing pumps.

C. EPA's Evaluation of SIP Submittal and Proposed Action

Relevant Statutes, Rules, Policies, and Guidance

In our October 3, 2011 proposed rule, we explained how we evaluated the statutory provisions and administrative rules that ADEQ submitted to update the Arizona SIP with respect to the stage II vapor recovery program in the Phoenix metropolitan area. To summarize that information, we evaluated ADEQ's stage II vapor recovery SIP update revision based on the Phoenix metropolitan area's designations and classifications for the now-revoked one-hour ozone standard and the current eight-hour ozone standard to ensure Arizona's stage II program complies with section 182(b)(3) of the Act (which is described in section I.B. of this document), to ensure that the requirements of the program are enforceable (see CAA section 110(a)(2)), and that the changes would not interfere with reasonable further progress or attainment of the NAAQS (see CAA section 110(l)).

In doing so, we relied on a number of guidance and policy documents including, but not limited to the 2006 Page/Oge Memorandum [9] and the 2007 Page/Oge Memorandum (see footnote 7 of this document for the full references to these memoranda). Please see our October 3, 2011 proposed rule at page 61065 for a complete list of the guidance and policy documents upon which we relied.

Compliance With CAA Section 182(b)(3) Stage II Requirements

In our October 3, 2011 proposed rule, we concluded that the statutory provisions meet the CAA section 182(b)(3) stage II requirements for the following reasons:

- The State is requiring stage II vapor recovery controls in an area that encompasses all of the 1-hour ozone ''serious'' nonattainment area consistent

II Vapor Recovery from Refueling of Corporate Fleets,'' memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, and Margo Tsirigotis Oge, Director, EPA Office of Transportation and Air Quality, to Regional Air Division Directors, dated November 28, 2007 (''2007 Page/Oge Memorandum'').

[9] In EPA's recent national rulemaking regarding waiver of stage II requirements, we indicate that the Agency continues to believe the 2006 Page/Oge Memorandum is sound guidance in areas where stage II is currently being implemented, and is unaffected by the proposed national widespread use determination. See 76 FR 41731, at 41737 (July 15, 2011). In today's action, we rely primarily on the principles and rationale set forth in the 2006 Page/Oge Memorandum rather than those set forth in EPA's July 15, 2011 proposed rule.

with compliance schedules set forth in the Act and the State provides low-volume throughput exemptions that are consistent with those allowed for in CAA section 182(b)(3); and

• The State law exemption for a ''gasoline dispensing site that is located on a manufacturer's proving ground'' in ARS 41–2132(C) does not apply to any facility within the nonattainment area, and, assuming that the fuel throughput at the facility to which it had applied is representative of the throughput of any such facility that might locate within the nonattainment area, the exemption would be consistent with the low-volume throughput exemptions allowed for in CAA section 182(b)(3).

Further, in our October 3, 2011 proposed rule, we evaluated whether the exclusion of ''E85'' from the State law definition of gasoline comports with section 182(b)(3) vapor recovery requirements. Based on this evaluation, we concluded that, given how close the ORVR-equipped percentage for flexible fuel vehicles (FFVs) in the Phoenix metropolitan area (87 percent in 2008 and climbing) is to the ORVR widespread use threshold based on comparable VOC emissions (95 percent) and because the change in emissions due to use of E85 would not interfere with attainment and RFP of any of the NAAQS, ORVR is in widespread use in the FFV vehicle fleet in the Phoenix metropolitan area for the purposes of CAA section 202(a)(6). Based on the finding of ''widespread use,'' in our October 3, 2011 proposed rule, we proposed to waive the stage II vapor recovery requirements for E85 dispensing pumps in the Phoenix metropolitan area under section 202(a)(6).

Third, in our October 3, 2011 proposed rule, we noted that changes in ADWM's vapor recovery rules would generally serve to clarify and improve the existing stage II vapor recovery rules that we approved into the SIP in 1994, and that the only significant changes potentially affecting approvability with respect to CAA section 182(b) (3) would be the new exemptions for motor raceways, and for marine and aircraft refueling facilities. We evaluated the new exemptions and concluded that they would be acceptable under section 182(b)(3) because the fuel throughput at the one motor raceway facility to which the exemption applies is far below the 10,000-gallon per month low-throughput threshold exemption allowed under CAA section 182(b)(3) and because the exemptions as applied to the race cars themselves and to marine and aircraft refueling facilities do not apply to apply to ''motor vehicles'' as defined in CAA section 216(2) and thus are not required to be subject to stage II vapor recovery requirements under section 182(b)(3). Please see our October 3, 2011 proposed rule at pages 61066 and 61067 for more information about our evaluation of the submitted statutory provisions and rules for compliance with section 182(b)(3) and for more information about our proposed waiver under section 202(a)(6).

Compliance With CAA Section 110(l)

In our October 3, 2011 proposed rule, we also evaluated the statutory provisions and administrative rules submitted by ADEQ as part of the September 21, 2009 SIP revision under CAA section 110(l) for possible interference with any applicable requirement concerning reasonable further progress (RFP) and attainment of any of the NAAQS or any other applicable requirement under the Act. With respect to this SIP revision, we found that the only potentially significant adverse effect on emissions and, thus, potential for interference would stem from the exclusion of E85 from the definition of ''gasoline'' in ARS 41–2121. The exclusion of E85 from ''gasoline'' would allow for increased use of E85 (by FFVs) as a motor fuel in the Phoenix metropolitan area and would result in corresponding change in emissions from FFVs using E85 relative to the same vehicles using the specially formulated gasoline (referred to as ''Arizona Cleaner Burning Gasoline,'' or ''Arizona CBG'') otherwise required.[10] (Arizona CBG is a boutique fuel established to reduce vehicle emissions in the Phoenix metropolitan area and to help meet CAA air quality planning requirements.) The gasoline portion of E85 must continue to meet the specifications for Arizona CBG pursuant to AAC R20–2–718(B).

To evaluate the change in emissions, we reviewed a recently published study from the Journal of the Air & Waste Management Association titled ''Effect of E85 on Tailpipe Emissions from Light-Duty Vehicles [11]'' (herein, the ''E85 Vehicle Emissions Study''), which compiled the results from previous published studies but also analyzed a significantly larger database compiled by EPA for vehicle certification purposes. As described in our October 3, 2011 proposed rule, though the results vary by pollutant and between ''tier 1'' (i.e., model year (MY) 1994–2003) and ''tier 2'' (MY 2004–2008) vehicles, in general, the study suggests that FFVs using E85 emit fewer oxides of nitrogen (NO_X), carbon monoxide, and particulate matter (PM) relative to the same FFVs using gasoline. However, with respect to VOCs, FFVs may well emit greater VOCs than the same FFVs using gasoline [based on the measurement results for non-methane organic gases (NMOGs)].[12]

Thus, with respect to nitrogen dioxide, carbon monoxide and particulate matter, because emissions using E85 would be lower than those using CBG, we concluded that the incremental substitution of CBG with E85 would not interfere with RFP or

[10] EPA's guidance for States in developing their stage II SIPs in the early 1990s suggested that States use the same definition of ''gasoline'' as the one found in EPA's Standard of Performance for Bulk Gasoline Terminals at 40 CFR 60.501, which includes ''any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.'' EPA recommended using this definition to most broadly reach situations in which refueling of motor vehicles results in evaporative VOC emissions that contribute to ozone nonattainment concentrations, and to avoid a narrow interpretation of what is ''gasoline'' that would allow significant VOC emissions from motor vehicle refueling activities in nonattainment areas to go uncontrolled.

In the existing SIP, Arizona includes a definition of ''gasoline,'' AAC R4–31–901(5), that is consistent with the NSPS definition. The SIP revision that we are approving today would replace the existing SIP definition of ''gasoline'' from Arizona's rules for gasoline vapor recovery (AAC title 20, chapter 2, article 9) with the definition of ''gasoline'' from Arizona's statutes governing motor fuel (ARS section 41–2121(5)). The definition of ''gasoline'' in ARS section 41–2121(5) is as inclusive as the existing SIP definition in AAC R4–31–901(5), except for the explicit exclusion of E85. Given that E85 can only be used by FFVs, and based on our proposed ''widespread use'' determination with respect to the FFV fleet in the Phoenix area that would be fueled at E85 dispensing pumps, we find the exception for E85 from the definition of ''gasoline'' acceptable under CAA section 182(b)(3). Moreover, to allow for the distribution and sale of E85 in the Phoenix area, a change in the term of ''gasoline'' (to exclude E85) for stage II vapor recovery purposes alone would not have sufficed. Because of the boutique fuel requirements of Arizona CBG that have been approved into the Arizona SIP, a change in the definition of ''gasoline'' as a motor fuel (to exclude E85) was also necessary.

[11] Janet Yanowitz and Robert L. McCormick, ''Effect of E85 on Tailpipe Emissions from Light-Duty Vehicles,'' Journal of the Air & Waste Management Association, Volume 59, February 2009, pages 172–182.

[12] Ethanol itself contains no lead (Pb) or sulfur, but the ethanol portion of E85 does contain some Pb and sulfur due to the addition of a denaturant, which can comprise up to 5% of the ethanol portion of E85. The denaturant used by ethanol producers is typically gasoline (either RFG or conventional gasoline, depending on where the ethanol plant is located), which has sulfur and Pb specifications similar to those for CBG. Therefore, a gallon of E85 would have less sulfur and Pb than a gallon of CBG (due to the dilution provided by the ethanol), and thus the emissions of sulfur dioxide and Pb from use of E85 in FFVs would be less than the corresponding emissions from use of CBG in those vehicles. Therefore, there would be no interference with RFP or attainment of the Pb and sulfur dioxide NAAQS.

attainment of the ambient standards for those pollutants.

We also concluded that the net effect on ozone conditions in the Phoenix 8-hour ozone nonattainment area would be beneficial despite the potential higher VOC emission rate by E85-fueled FFVs (relative to CBG-fueled FFVs) because of the offsetting effect of NO_X emissions reductions (from use of E85 relative to Arizona CBG) and because of the extension of stage II vapor recovery requirements to ''Area A,'' an area that is larger than the area formerly designated as nonattainment for the 1-hour ozone standard and that includes the fast-growing region west of the City of Phoenix.[13]

On the basis of the above rationale, we determined in our October 3, 2011 proposed rule that this SIP revision, including the change in the definition of ''gasoline'' to exclude ''E85,'' would not interfere with RFP and attainment for any of the NAAQS. Please see our October 3, 2011 proposed rule at pages 61067 and 61068 for more information about our evaluation of the submitted statutory provisions and rules for compliance with section 110(l) of the CAA.

D. Proposed Correction of Previous Rulemaking

Lastly, in our October 3, 2011 proposed rule, we described our direct final action (59 FR 54521, November 1, 1994) to approve the administrative rules adopted by ADWM to provide for the installation and operation of stage II vapor recovery systems, and in which we included erroneous references and failed to identify the specific rules being incorporated by reference into the SIP. To address this issue, we proposed, under section 110(k)(6) and 301(a) of the CAA,[14] to correct our previous codification of our approval of the stage II vapor recovery rules to identify the appropriate regulatory agency and to identify the specific rules that were being approved and incorporated by reference into the Arizona SIP. Please see our October 3, 2011 proposed rule at page 61068 for more information about our proposed error correction under CAA section 110(k)(6).

II. Public Comments and EPA Responses

Our October 3, 2011 proposed rule provided a 60-day comment period. During this period, we received no comments on our proposed action.

III. Final Action

As authorized in section 110(k)(3) of the Act and for the reasons provided in our October 3, 2011 proposed rule and summarized herein, EPA is taking final action to approve the statutory provisions and updated administrative rules establishing certain vapor recovery requirements in the Phoenix metropolitan area as a revision to the Arizona SIP. Specifically, we are taking final action to approve Arizona Revised Statutes (ARS) sections listed in table 1 of this document and the Arizona Administrative Code (AAC) sections listed in table 2 of this document.[15] Second, as authorized under CAA section 202(a)(6), we are taking final action to waive the stage II vapor recovery requirements at E85 dispensing pumps in the Phoenix area under CAA section 202(a)(6) based on our conclusion that ORVR is in widespread use among the FFVs that use such facilities.

In so doing, we conclude that the submitted statutory provisions and updated administrative rules meet the related requirements for stage II vapor recovery under CAA section 182(b)(3) and will not interfere with attainment and RFP of any of the NAAQS or any other CAA applicable requirement, consistent with the requirements of CAA section 110(l). Final EPA approval of the updated statutory provisions and rules and incorporation of them into the Arizona SIP makes them federally enforceable.

Lastly, under section 110(k)(6) and 301(a) of the CAA, we are taking final action to correct and clarify the incorporation of the previous version of ADWM's vapor recovery related administrative rules into the Arizona SIP.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) given the limited nature of this SIP revision (as to geographic scope and vehicle applicability);
- 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that

[13] As submitted in 1993, ARS section 41–2132(C) established the stage II vapor recovery requirement within the ozone nonattainment area, but the current version of this statute, which is included in today's final approval action, extends the requirement to ''Area A.''

[14] Section 110(k)(6) of the CAA provides that, whenever EPA determines that the Agency's action approving, disapproving, or promulgating any plan or plan revision, area designation, redesignation, classification, or reclassification was in error, EPA may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Section 301(a) of the CAA authorizes EPA to prescribe such regulations as are necessary to carry out the Agency's functions under the CAA.

[15] Our approval of the statutory provisions and administrative rules in tables 1 and 2 of this document supersedes the previously approved versions of the administrative rules in the Arizona SIP (i.e., AAC Article 9 (''Gasoline Vapor Control''), Rules R4–31–901 through R4–31–910, adopted by the Arizona Department of Weights and Measures on August 27, 1993, submitted on May 27, 1994, and approved on November 1, 1994 (59 FR 54521)).

it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *August 13, 2012.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Parts 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 11, 2012.

Lisa P. Jackson,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

■ 2. Section 52.120 is amended by revising paragraph (c)(69)(i)(A) and adding paragraph (c)(148) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(69) * * *

(i) * * *

(A) *Arizona Department of Weights and Measures.* (*1*) Letter from Grant Woods, Attorney General, State of Arizona, to John U. Hays, Director, Department of Weights and Measures, dated August 31, 1993, and enclosed Form R102 (''Certification of Rules and Order of Rule Adoption'').

(*2*) Arizona Administrative Code, Article 9 (''Gasoline Vapor Control''), Rules R4–31–901 through R4–31–910, adopted August 27, 1993, effective (for state purposes) on August 31, 1993.

* * * * *

(148) The following plan revision was submitted on September 21, 2009 by the Governor's designee.

(i) *Incorporation by reference.* (A) *Arizona Department of Weights and Measures.* (*1*) Arizona Revised Statutes, title 41 (State Government), chapter 15 (Department of Weights and Measures), as amended and supplemented by the general and permanent laws enacted through the First Special Session, and legislation effective January 11, 2011 of the First Regular Session of the Fiftieth Legislature (2011):

(i) Article 1 (General Provisions), section 41–2051 (''Definitions''), subsections (6) (''Certification''), (10) (''Department''), (11) (''Diesel fuel''), (12) (''Director''), and (13) (''E85''), amended by Laws 2008, Ch. 254, § 2;

(ii) Article 6 (Motor Fuel), section 41–2121 (''Definitions''), subsection (5) (''Gasoline'') amended by Laws 2007, Ch. 292, § 11; and

(iii) Article 7 (Gasoline Vapor Control), section 41–2131 (''Definitions''), added by Laws 1992, Ch. 299, § 6; section 41–2132 (''Stage I and stage II vapor recovery systems''), amended by Laws 2010, Ch. 181, § 2; and section 41–2133 (''Compliance schedules''), amended by Laws 1999, Ch. 295, § 17.

(*2*) Arizona Administrative Code, title 20, chapter 2, article 1 (Administration and Procedures), section R20–2–101 (''Definitions''), effective (for state purposes) on June 5, 2004.

(*3*) Arizona Administrative Code, title 20, chapter 2, article 9 (Gasoline Vapor Control):

(i) Sections R20–2–901 (''Material Incorporated by Reference''), R20–2–902 (''Exemptions''), R20–2–903 (''Equipment and Installation''), R20–2–904 (''Application Requirements and Process for Authority to Construct Plan Approval''), R20–2–905 (''Initial Inspection and Testing''), R20–2–910 (''Annual Inspection and Testing''), R20–2–911 (''Compliance Inspections''), and R20–2–912 (''Enforcement''), effective (for state purposes) on June 5, 2004.

(ii) Sections R20–2–907 (''Operation''), R20–2–908 (''Training and Public Education''), and R20–2–909 (''Recordkeeping and Reporting''), effective (for state purposes) on October 8, 1998.

[FR Doc. 2012–14148 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR 52

[EPA–R09–OAR–2012–0253; FRL–9682–5]

Approval of Air Quality Implementation Plan; Arizona; Attainment Plan for 1997 8-Hour Ozone Standard

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted by the State of Arizona on June 13, 2007, to demonstrate attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) in the Phoenix-Mesa nonattainment area by June 15, 2009. This action was proposed in the **Federal Register** on April 11, 2012. EPA is approving the submitted SIP revision based on our determination that it contains all of the SIP elements required for ozone nonattainment areas under title I, part D, subpart 1 of the Clean Air Act (CAA) for the 1997 8-hour ozone NAAQS.

DATES: This rule is effective on July 13, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0253 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business

hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Anita Lee, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3958, *lee.anita@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On April 11, 2012 (70 FR 21690), EPA proposed to approve the ''Eight-Hour Ozone Plan for the Maricopa Nonattainment Area'' (2007 Ozone Plan) submitted as a SIP revision by the Arizona Department of Environmental Quality (ADEQ) on June 13, 2007. We proposed to approve the 2007 Ozone Plan based on our determination that it contains all of the plan elements required for ozone nonattainment areas under title I, part D, subpart 1 of the CAA, including the demonstration of reasonably available control measures (RACM), reasonable further progress (RFP), emission inventories, transportation conformity motor vehicle emission budgets for 2008, and contingency measures to be implemented if the Phoenix-Mesa nonattainment area fails to attain by June 15, 2009.

II. Public Comments and EPA Responses

EPA provided a 30-day public comment period on our proposed action. This comment period ended on May 11, 2012. We received no comments.

III. EPA Action

Under CAA section 110(k)(3), EPA is fully approving the 2007 Ozone Plan for Phoenix-Mesa based on our determination that it meets all applicable requirements under subpart 1 of part D, title I of the CAA for the 1997 8-hour ozone NAAQS, as follows:

1. The 2002 base year emission inventory as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.915;
2. The reasonably available control measures demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.912(d);
3. The reasonable further progress demonstration as meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.910;
4. The attainment demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.908;
5. The contingency measures for failure to make RFP or to attain as meeting the requirements of CAA section 172(c)(9); and
6. The motor vehicle emission budgets for the attainment year of 2008, which are derived from the attainment demonstration, as meeting the requirements of CAA section 176(c) and 40 CFR part 93, subpart A.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Nitrogen dioxide, Volatile organic compounds.

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

Dated: May 25, 2012.

Jared Blumenfeld,

Regional Administrator, EPA Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(149) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(149) The following plan was submitted on June 13, 2007 by the Governor's designee.

(i) [Reserved]

(ii) *Additional Materials.* (A) *Arizona Department of Environmental Quality.* (1) Letter dated June 13, 2007 from Stephen A. Owens, Director, ADEQ, to Wayne Nastri, Regional Administrator, United States Environmental Protection Agency, Region IX.

(2) Eight-Hour Ozone Plan for the Maricopa Nonattainment Area, dated June 2007, including Appendices, Volumes One and Two.

[FR Doc. 2012–13817 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0091, EPA–R03–OAR–2011–0584; FRL–9685–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the limited approval of the Commonwealth of Virginia's Regional Haze State Implementation Plan (SIP) revision. EPA is taking this action because Virginia's SIP revision, as a whole, strengthens the Virginia SIP. This action is being taken in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. EPA is also approving this revision as meeting the infrastructure requirements relating to visibility protection for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 1997 and 2006 fine particulate matter ($PM_{2.5}$) NAAQS.

DATES: This final rule is effective on July 13, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0091, EPA–R03–OAR–2011–0584. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by email at *linden.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On January 25, 2012 (77 FR 3691), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed limited approval and limited disapproval of Virginia's Regional Haze SIP. The formal SIP revisions were submitted by the Virginia Department of Environmental Quality (VADEQ) on July 17, 2008, March 6, 2009, January 14, 2010, October 4, 2010, November 19, 2010, and May 6, 2011. This revision also meets the requirements of CAA sections 110(a)(2)(D)(i)(II) and 110 (a)(2)(J), relating to visibility protection for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS.

II. Summary of SIP Revision

The SIP revision includes a long term strategy with enforceable measures ensuring reasonable progress towards meeting the reasonable progress goals for the first planning period through 2018. Virginia's Regional Haze Plan contains the emission reductions needed to achieve Virginia's share of emission reductions and sets the reasonable progress goals for other states to achieve reasonable progress at the two Class I Areas within Virginia, Shenandoah National Park and James River Face Wilderness Area. The specific requirements of the CAA and EPA's Regional Haze Rule (RH rule) (64 FR 35732, July 1, 1999) and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received numerous adverse comments on the January 25, 2012 NPR. A summary of the comments submitted and EPA's responses are provided in section III of this document.

III. Summary of Public Comments and EPA Responses

Comment: The commenter argued that EPA's proposed limited approval/limited disapproval action based on Virginia's reliance on clean air interstate rule (CAIR) is unwarranted and should be withdrawn. Instead, the commenter states that EPA should grant full and unconditional approval of the Virginia Regional Haze SIP. The commenter disagreed that CAIR renders the State's SIP unable to satisfy all of the CAA's regional haze SIP requirements. The commenter noted that Virginia's SIP was submitted prior to the remand of CAIR and relied on the requirements under 40 CFR 51.308(e)(4), which remain in effect at this time. The commenter argued that as a result, the Virginia SIP is entirely consistent with the applicable law. The commenter also argued that if the D.C. Circuit invalidates the cross state air pollution rule (CSAPR), EPA's limited disapprovals of regional haze SIPs due to their reliance on the CAIR equals best available retrofit technology (BART) provision of the regional haze rules will have created unnecessary complications for states that should properly be able to continue their reliance on CAIR. The commenter argued that EPA does not have a basis to propose or promulgate disapproval or limited disapproval of a Regional Haze SIP due to its reliance on CAIR and on 40 CFR 51.308(e)(4) because the SIP is fully compliant with the relevant regulations as they exist today.[1] The commenter believes that the only proper course of action for EPA is to promptly promulgate a full and unconditional approval of the Virginia SIP.

Response: EPA disagrees with the commenter and has determined the limited approval/limited disapproval is appropriate for this SIP. The requirements for a BART alternative program, specific to trading programs in 40 CFR 51.308(e)(2) state that ''such an

[1] The word ''today'' in the text refers to the date of the comment letter, February 24, 2012.

emissions trading program or other alternative measure must achieve greater reasonable progress than would be achieved through the installation and operation of BART.'' EPA's analysis, in 2005, showing that CAIR would provide for greater reasonable progress than BART, was based on the then reasonable assumption that CAIR met the requirements of the CAA and would remain in place. EPA's Transport Rule, commonly referred to as the CSAPR, sunset the requirements of CAIR. EPA's decision to sunset CAIR is the result of a decision by the Court of Appeals for the D.C. Circuit remanding CAIR to EPA and leaving CAIR in place only ''temporarily,'' as noted in our notice of proposed rulemaking and by the commenters. As such, notwithstanding the regulatory text in 40 CFR 51.308(e)(4), we cannot fully approve the Virginia Regional Haze SIP which relies heavily on CAIR as part of its long-term strategy and to meet the BART requirements.

The EPA has also completed an analysis and has proposed the Transport Rule as an alternative to BART for electrical generating units (EGUs) located in the Transport Rule states (which include Virginia). (76 FR 82219, December 30, 2011). Given the significance of the emissions reductions from CAIR to Virginia's demonstration that it has met the requirements of the Regional Haze Rule, EPA proposed issuing a limited disapproval of the Virginia SIP. Although CAIR is currently being administered by EPA pursuant to an order by the Court of Appeals for the D.C. Circuit in *EME Homer City Generation, L.P.* v. *EPA,* it will not remain in effect indefinitely. For this reason, EPA cannot fully approve Regional Haze SIP revisions that rely on CAIR for emission reduction measures.

Comment: The commenter stated that EPA's proposal of approving the reasonable progress controls for Mead Westvaco is contrary to EPA's position in the proposal of Arkansas's Regional Haze SIP that the uniform rate of progress (URP) does not establish a ''safe harbor'' and is not supported by the preamble to the RH rule (64 FR 35732). The commenter also stated that VADEQ and EPA placed undue weight on the premise that the visibility improvements projected for the affected Class I areas are in excess of those needed to be on the URP glidepath, and therefore, a less-rigorous Reasonable Progress analysis was acceptable. Another commenter gave a similar comment but added that the 1 percent contribution to impairment before a source will be considered for control for reasonable progress purposes is arbitrary.

Response: EPA disagrees with the commenter regarding the comments on the URP. The RH rule preamble states that ''[i]f the State determines that the amount of progress identified through the [URP] analysis is reasonable based upon the statutory factors, the State should identify this amount of progress as its reasonable progress goal for the first long-term strategy, unless it determines that additional progress beyond this amount is also reasonable. If the State determines that additional progress is reasonable based on the statutory factors, the State should adopt that amount of progress as its goal for the first long-term strategy. Virginia did determine that the reasonable progress goals (RPG) for the first implementation period would be beyond the URP and developed the RPGs using the four factors required by the statute. As such, the URP glidepath was not a stopping point for analysis done by VADEQ. The analysis of reasonable measures evaluated by VISTAS can be found in Virginia's appendices. The 1 percent contribution of impairment for reasonable progress is not arbitrary, but rather explained in Virginia's submittal.

Comment: The commenter stated that a 90 percent efficient scrubber at Mead Westvaco should be reasonable progress instead of the upgrade to the current flue gas desulfurization (FGD). The commenter stated that the new scrubber with 90 percent efficiency could have a cumulative improvement of visibility on four Class I areas of 0.8–1.3 deciview beyond the BART limit. The commenter also stated that the upgrade to the current FGD results in a cumulative improvement of visibility on four Class I areas of 0.3 deciview beyond BART.

Response: The visibility improvement provided by the commenter is calculated using a cumulative impact, combining the improvement at all class I areas impacted by the source. The RH rule does not require the use of cumulative impact in reviews done by the state, and VADEQ chose not to assess visibility on a cumulative basis. Virginia did include in their determination for reasonable progress that the upgrade of the FGD at Mead Westvaco, along with the other measures in the long-term strategy ensure that the state is on the glidepath for achieving natural background for the 20 percent worst days by 2064 and that there is no degradation to the 20 percent best days as required. Thus, EPA agrees that the upgrade to the FGD is acceptable for reasonable progress in the regional haze planning period.

Comment: The commenter believes that VADEQ overestimated the costs of a New Caustic flue gas desulfurization (FGD) and new Spray Dryer with Baghouse, while the commenters analysis shows that the costs of a New Caustic FGD and new Spray Dryer with Baghouse are reasonable in terms of total and incremental costs per ton and per deciview.

Response: EPA disagrees with the commenter's analysis of costs of the FGD and baghouse. The approach used by the commenter to calculate the revised costs of the New Caustic FGD and Spray Dryer with Baghouse use a cumulative total visibility impact and this approach is not required by EPA, but rather recommended. The state has the option to use a cumulative approach for calculating the cost per deciview of a control technology. EPA therefore agrees with VADEQ in their reasoned cost analysis for BART controls for sulfur dioxide (SO_2).

Comment: The commenter stated VADEQ was incorrect and inconsistent in applying its cost thresholds, and its conclusions are inconsistent with BART determinations for paper mill power boilers in Virginia and in other states.

Response: EPA disagrees that VADEQ's BART determinations are incorrect, or inconsistent, or unreasonable. BART determinations are done on a case-by-case basis, so it is possible that a control technology for one power boiler may not be a reasonable option for another. The state has the discretion to rank the technologies of the BART determination in their analysis. Virginia has completed this analysis to show the upgrade of the current FGD is BART and EPA agrees. The commenter supplied other BART determinations which have different fuel types than that of the Mead Westvaco Facility in Virginia, and the power boiler number 9 is in a combined stack with three other power boilers that go through the FGD and will receive additional SO_2 reductions as a result of the upgrade required for BART. Therefore, the commenter's statements are not analogous, and EPA finds Virginia's determinations reasonable.

Comment: The commenter stated it believed that EPA must disapprove the Virginia Regional Haze SIP due to the reliance on CAIR as a BART substitute and as part of its reasonable progress demonstration.

Response: EPA disagrees in general with this comment. EPA understands that CAIR has been remanded and that is the reason that the limited disapproval of the Virginia Regional Haze SIP is being promulgated. EPA has proposed that the Transport Rule is

better than BART and proposed a Federal implementation plan (FIP) for Virginia to replace the CAIR reliance. (76 FR 82219) EPA does recognize that the other additional measures in the SIP submitted by Virginia help strengthen the Virginia SIP as a whole and are the basis for the limited approval portion of this action.

Comment: The commenter stated that the Virginia Regional Haze SIP does not provide enough reductions to meet the uniform rate of progress for James River Face Wilderness Area on the 20 percent best days and does not provide a reasoned justification for failing to do so. The commenter stated the SIP is therefore, deficient and unapprovable. The Commonwealth has also not complied with the requirement of EPA's rules that it provide an assessment of the number of years it would take to attain natural conditions of visibility improvement on the best days based on the reasonable progress goals selected by the Commonwealth. The commenter states that a uniform rate of progress to achieve a 9.8 deciview reduction would require reductions of 0.163 deciview per year (dv/yr), or a total of 2.29 deciview over the 14 years of the first planning period.

Response: EPA disagrees with the commenter. 40 CFR 51.308(d)(1) states that '' the reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and to ensure that no degradation in visibility for the least impaired days over the same period''. The URP does not apply to the 20 percent best days, but only the 20 percent worst or most impaired days. The requirement is to demonstrate that the 20 percent best days show no degradation in visibility which VADEQ has done on page 55 of their October 4, 2010 submittal. EPA believes that Virginia has met these requirements.

Comment: The commenter questioned EPA's authority to grant ''limited'' approvals and disapprovals. The commenter also states that the final limited approval and limited disapproval of the Virginia Regional Haze SIP cannot lawfully discharge or restart the clock on a FIP obligation because EPA is already under a nondiscretionary duty to promulgate a regional haze FIP by virtue of the EPA's findings of failure to submit for Virginia on January 15, 2009.

Response: EPA disagrees with the commenter and finds that the limited approval, limited disapproval is appropriate for SIP strengthening and due to the status of CAIR. The final limited disapproval must be signed prior to EPA issuing a FIP to correct the reliance on CAIR in Virginia's Regional Haze SIP. The explanation in the proposed notice explained the effects of a limited disapproval and the timeframe for a FIP to be promulgated. It is understood that EPA does not have those additional 2 years because EPA is obligated to finalize the actions on the Virginia Regional Haze SIP pursuant to a judicial consent decree entered by the National Park Conservation Association (NPCA). Also, EPA has statutory authority for limited approvals and limited disapprovals pursuant to Section 110(k)(3) of the CAA.

Comment: The commenter noted that Virginia has arbitrarily rejected Mid-Atlantic Northeast Visibility Union's (MANE–VU) requested measures as reasonable progress requirements to address Virginia's contribution to Brigantine National Wildlife Refuge, Great Gulf Wilderness Area, and Presidential Range—Dry River Wilderness Area. Virginia made assertions using VISTAS analysis showing that no stack contributes 1 percent or more to impairment at Brigantine, and that some of the units are temporarily shut down or predicted by the integrated planning model (IPM) model to be shut down by 2018. The commenter claimed these assertions are not federally enforceable and that EPA's rule requires Virginia to consult with the states whose class I areas it impacts ''in order to develop coordinated emission management strategies.'' 40 CFR 51.308(d)(3)(i). The commenter believed that Virginia has not addressed its share of emission reductions required by 40 CFR 51.308(d)(3)(ii) in the SIP are needed to meet the progress goal for class I areas emissions impact and that the SIP should be disapproved. The commenter stated that Virginia did not comply with this requirement, nor did it provide the modeling required in 40 CFR 51.308(d)(3)(iii). The commenter stated that EPA's approved regional haze SIP for New Jersey found the MANE–VU measures are ''necessary to achieve the Reasonable Progress Goal'' for Brigantine and other class I areas. The commenter stated that New Jersey and MANE–VU states considered the five factor analysis required and Virginia did not question those reasonable progress goals, or provide a reasoned basis for not doing them. See 40 CFR 51.308(d)(1)(i)(A).

Response: EPA disagrees with the comments regarding reasonable progress goals and finds the commenter's comparisons not analogous to Virginia. There are only four factors required for the reasonable progress goals in 40 CFR 51.308(d)(1)(i)(A) and they are cost of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and remaining useful life of any potentially affected sources. Virginia has supplied a technical analysis of the reductions in emissions towards meeting the MANE–VU measures by using the emission inventory, ambient monitoring data and modeling done by the regional planning organizations (RPO) VISTAS, which is found in VADEQ's appendices. EPA recommended that the states form RPOs for planning purposes of the regional haze SIPs, and both VISTAS and MANE–VU states did participate in coordination meetings for developing these SIPs. EPA has approved different approaches for establishing reasonable progress goals, and the states have the flexibility in doing so for their respective class I areas. Additionally, each RPO modeled using a separate set of assumptions to demonstrate the share of apportioned emission reductions. In using the VISTAS approach, as approved by EPA, Virginia has met its share of emission reductions for the class I areas it impacts. If the reasonable progress goals are not met or on track to be met for the 2018 targets, then the shortfall will be addressed in the midcourse review and a SIP revision to address any additional measures needed at that time to address the shortfall in emission reductions.

IV. Final Action

EPA is finalizing its limited approval of the revisions to the Virginia SIP submitted on July 17, 2008, March 6, 2009, January 14, 2010, October 4, 2010, November 19, 2010, and May 6, 2011, address regional haze for the first implementation period. EPA is issuing a limited approval of the Virginia SIP since overall the SIP will be stronger and more protective of the environment with the implementation of those measures by Virginia and with having Federal approval and enforceability than it would without those measures being included in the Virginia's SIP. The final limited disapproval and FIP will be in a separate rulemaking action done by EPA. EPA is also approving this revision as meeting the applicable visibility related requirements of section 110(a)(2) of the CAA including, but not limited to sections 110(a)(2)(D)(i)(II) and 110(a)(2)(J) of the CAA, relating to visibility protection for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action finalizing the limited approval of the Virginia Regional Haze SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.).

List of Subjects in 40 CFR Part 52

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

Dated: May 30, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Amend § 52.2420, in the table in paragraph (e) by adding an entry for ''Regional Haze Plan'' at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	* *	*	* *	*
Regional Haze Plan	Statewide	7/17/08, 3/6/09, 1/14/12, 10/4/10, 11/19/10, 5/6/11.	6/13/2012 [*Insert page number where the document begins*].	§ 52.2452(d); Limited Approval.

■ 3. Amend § 52.2452 by adding paragraph (d) to read as follows:

§ 52.2452 Visibility protection.

* * * * *

(d) Limited approval of the Regional Haze Plan submitted by the Commonwealth of Virginia on July 17, 2008, March 6, 2009, January 14, 2010, October 4, 2010, November 19, 2010, and May 6, 2011.

[FR Doc. 2012–14270 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0078; FRL–9348–7]

Killed, Nonviable Streptomyces acidiscabies Strain RL–110^T; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T in or on all food commodities when applied as a pre- or post-emergent herbicide and used in accordance with good agricultural practices. Marrone Bio Innovations, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T under the FFDCA.

DATES: This regulation is effective June 13, 2012. Objections and requests for hearings must be received on or before August 13, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0078, is at *http://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

Some documents cited in this final rule are located in a different docket associated with a notice of receipt (NOR) of an application for a new pesticide, *Streptomyces acidiscabies* strain RL–110^T, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That docket number is EPA–HQ–OPP–2010–0079. Such documents include the Biopesticides Registration Action Document (BRAD) provided as a reference in Unit IX. (Ref. 1) of this final rule, and other documents listed Unit IX. of this final rule.

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–6502; email address: *sibold.ann@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0078 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 13, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0078, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

II. Background and Statutory Findings

In the **Federal Register** of March 10, 2010 (75 FR 11171) (FRL–8810–8), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0F7681)

by Marrone Bio Innovations, Inc., 2121 Second St., Suite B–107, Davis, CA 95618. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Streptomyces acidiscabies* strain RL–110^T. This notice referenced a summary of the petition prepared by the petitioner, Marrone Bio Innovations, Inc., which is available in the docket via *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

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

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

III. Toxicological Profile

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

A. Overview of Streptomyces acidiscabies Strain RL–110^T

Streptomyces species are commonly found in agricultural settings (i.e., soils and decaying plant material) and are present on fresh produce of all kinds with no known adverse effects. Indeed, the Manual of Clinical Microbiology (9th edition) (Ref. 2) states that the primary ecological niche for aerobic actinomycetes, such as *Streptomyces acidiscabies* strain RL–110^T, is likely decaying plant material. The Manual of Clinical Microbiology (9th edition) (Ref. 2) further states that infections caused by *Streptomyces* species are infrequent and limited to species unrelated to *acidiscabies* and does not identify *Streptomyces acidiscabies* as clinically significant. No food borne disease outbreaks associated with *Streptomyces* species or mammalian active toxin production from *Streptomyces* species, including *Streptomyces acidiscabies,* have been reported. *Streptomyces* species have been used in pesticide products to control various pests of agricultural products. In conjunction with the registration of some of these pesticide products, EPA established the following exemptions from the requirement of a tolerance:

1. *Streptomyces* sp. (now *griseoviridis*) strain K61 (40 CFR 180.1120)—See the **Federal Register** of April 21, 1993 (58 FR 21402) (FRL–4577–9).

2. *Streptomyces lydicus* WYEC 108 (40 CFR 180.1253)—See the **Federal Register** of June 3, 2004 (69 FR 31297) (FRL–7361–3).

Streptomyces acidiscabies strain RL–110^T was isolated from scab-infected potatoes in Maine and New York. The pesticide active ingredient consists of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T cells and spent fermentation media. Thaxtomin A, a phytotoxin produced by *Streptomyces acidiscabies* strain RL–110^T, provides the herbicide mode of action.

B. Microbial Pesticide Toxicology Data Requirements

All applicable mammalian toxicology data requirements supporting the request for an exemption from the requirement of a tolerance for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T in or on all food commodities have been fulfilled with data submitted by the petitioner or data waiver requests that have been granted by EPA. Results of acceptable (i.e., data that are scientifically sound and useful for risk assessment) toxicity tests (acute oral, dermal, and inhalation toxicity), primary eye and dermal irritation tests, and a skin sensitization test, all of which addressed potential routes of exposure to the active ingredient, revealed little to no toxicity, irritation, or sensitization attributed to killed, nonviable *Streptomyces acidiscabies* strain RL–110^T. Moreover, the acute toxicity and primary irritation tests received a Toxicity Category IV classification (see 40 CFR 156.62). Finally, the results of an acute intravenous injection toxicity/pathogenicity test demonstrated that live *Streptomyces acidiscabies* strain RL–110^T were not toxic, infective and/or pathogenic to the test animals.

The overall conclusions from all toxicological information submitted by the petitioner are briefly described in this unit, while more in-depth synopses of some study results can be found in the associated Biopesticides Registration Action Document (BRAD) provided as a reference in Unit IX. (Ref. 1).

1. *Acute oral toxicity/pathogenicity (Harmonized Guideline 885.3050) and acute pulmonary toxicity/pathogenicity (Harmonized Guideline 885.3150) (Master Record Identification Number (MRID No.) 479468–17).* EPA waived the acute oral toxicity/pathogenicity and acute pulmonary toxicity/pathogenicity data requirements for the killed microorganism, but required the intravenous injection acute toxicity/pathogenicity study to verify the product, under a ''worst case'' scenario, would not be toxic and/or pathogenic to the test animals.

The toxicity component of the acute oral toxicity/pathogenicity and acute pulmonary toxicity/pathogenicity data requirements was fulfilled by MRID No. 479468–02 (acute oral toxicity, described in this unit) and MRID No. 479468–04 (acute inhalation toxicity, described in this unit), respectively.

2. *Acute injection toxicity/pathogenicity (intravenous)—rat (Harmonized Guideline 885.3200; MRID No. 479468–08).* An acceptable acute injection toxicity/pathogenicity study demonstrated that live *Streptomyces acidiscabies* strain RL–110^T was not toxic, infective, and/or pathogenic to rats when administered intravenously in a single dose of 9.0×10^6 colony-forming units (CFU) per rat.

3. *Acute oral toxicity—rat (Harmonized Guideline 870.1100; MRID No. 479468–02).* An acceptable acute oral toxicity study with a test substance

containing killed, nonviable *Streptomyces acidiscabies* strain RL–110^T demonstrated that the oral median lethal dose (LD_{50}) (i.e., a statistically derived single dose that can be expected to cause death in 50% of test animals) was greater than 5,000 mg/kg for female rats. This is the limit dose, and no further acute oral testing is required. (Toxicity Category IV).

4. *Acute dermal toxicity—rat (Harmonized Guideline 870.1200; MRID No.* 479468–03*).* An acceptable acute dermal toxicity study with a test substance containing killed, nonviable *Streptomyces acidiscabies* strain RL–110^T demonstrated that the dermal LD_{50} was greater than 5,050 mg/kg for male and female rats combined. This is the limit dose, and no further acute dermal testing is required. (Toxicity Category IV).

5. *Acute inhalation toxicity—rat (Harmonized Guideline 870.1300; MRID No. 479468–04).* An acceptable acute inhalation study with a test substance containing killed, nonviable *Streptomyces acidiscabies* strain RL–110^T demonstrated that the inhalation median lethal concentration (LC_{50}) was greater than 2.21 mg/L (the limit or maximum dose required to be tested) for male and female rats combined. (Toxicity Category IV).

6. *Primary dermal irritation—rabbit (Harmonized Guideline 870.2500; MRID No. 479468–06).* An acceptable primary dermal irritation study demonstrated that a test substance containing killed, nonviable *Streptomyces acidiscabies* strain RL–110^T was not irritating to the skin of rabbits (Toxicity Category IV).

7. *Skin sensitization—guinea pig (Harmonized Guideline 870.2600; MRID No. 479468–07).* An acceptable dermal sensitization study demonstrated that a test substance containing killed, nonviable *Streptomyces acidiscabies* strain RL–110^T was not a dermal sensitizer to guinea pigs.

IV. Aggregate Exposure

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

A. Dietary Exposure

1. *Food exposure.* Killed, nonviable *Streptomyces acidiscabies* strain RL–110^T will be applied as a herbicide to agricultural crops pre-plant, at-plant and post-plant and may be applied up to the day of harvest. Exposure to this active ingredient through food is possible but is expected to be minimal for the following reasons:

i. The proposed pesticide product will be diluted prior to application.

ii. Pre-plant applications will occur 1–45 days or more before planting.

iii. At-plant applications will be broadcast and incorporated into the soil mechanically or by rainfall or sprinkler application.

iv. Post-plant applications for trees will be made as a broadcast or banded application to soil surface below established trees or between tree rows and incorporated into the soil by rainfall, irrigation or mechanical incorporation.

v. Post-plant lay-by and split application will be made between rows and incorporated into the soil.

vi. Application to rice fields is followed by flooding or partially draining and re-flooding the fields. and

vii. Rainfall and sprinkler irrigation will further wash residues of the pesticide from treated crops.

Following all applications, killed, nonviable *Streptomyces acidiscabies* strain RL–110^T will naturally degrade due to consumption by other biological organisms, including bacteria and fungi (Ref. 3).

In the unlikely event that any residues of the pesticide remain in or on consumed food, no adverse effects would be expected, based on the lack of toxicity, infectivity, and/or pathogenicity demonstrated in the submitted studies.

2. *Drinking water exposure.* Exposure to residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T in consumed drinking water is unlikely, since the majority of the proposed use patterns (ground and aerial) include measures to incorporate the herbicide into the soil; however, residues may appear at low levels in ground and surface water from these uses due to runoff or drainage from treated fields, or by spray drift. These residues will be minimized by natural degradation of the active ingredient by microbial activity (Ref. 3). Furthermore, since application of the product is concentrated in upper soil strata, movement through the soils would likely filter out any remaining product.

The proposed directions for applications to established turf in landscapes provide for dilution of the product prior to application, but do not include measures to incorporate the product. Since established turf constitutes significant ground cover, this, in itself, would be expected to reduce the potential runoff of the pesticide into surface water and percolation to ground water. The proposed directions for applications to ornamentals in landscapes specify dilution prior to application and incorporation by irrigation or raking into the soil. These measures, along with natural degradation and incorporation of the product into upper soil strata, will reduce the potential for runoff into surface or ground water.

The proposed use in rice provides the greatest potential for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T to appear in ground and surface water, since application to rice fields is followed by flooding the treated fields. If residues of *Streptomyces acidiscabies* strain RL–110^T are transferred to surface or ground waters that are intended for eventual human consumption, and subjected to sanitation (e.g., chlorination, pH adjustments, filtration, high temperatures) in drinking water treatment plants, the residues would likely be removed from the finished drinking water (Ref. 4). In the unlikely event that any residues of the pesticide occur in drinking water even after being processed at a water treatment facility, no adverse effects would be expected, based on the lack of toxicity and pathogenicity demonstrated in the submitted studies.

B. Other Non-Occupational Exposure

Given the natural occurrence of *Streptomyces acidiscabies* in soil (Refs. 5 and 6), non-occupational and residential exposure may already be occurring. Application of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T to established turf in residential and landscape settings will result in exposure via the dermal and inhalation routes. Any such exposures are expected to be minimal, since the concentration of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T is diluted prior to application and the active ingredient is not expected to persist (see the food and drinking water exposure sections in this unit).

In the unlikely event that the proposed uses of the pesticide result in residential, non-occupational exposure, no adverse effects would be expected, based on the lack of toxicity, irritation and sensitization demonstrated in available data (see additional discussion in Unit III.).

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

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a

tolerance exemption, EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity.''

EPA has not found killed, nonviable *Streptomyces acidiscabies* strain RL–110^T to share a common mechanism of toxicity with any other substances, and killed, nonviable *Streptomyces acidiscabies* strain RL–110^T does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, EPA has assumed that killed, nonviable *Streptomyces acidiscabies* strain RL–110^T does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine chemicals that have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

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

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor. In applying this provision, EPA either retains the default value of 10X or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on the acute toxicity and pathogenicity data discussed in Unit III.B., EPA concludes that there are no threshold effects of concern to infants, children or adults when killed, nonviable *Streptomyces acidiscabies* strain RL–110^T is used as labeled in accordance with good agricultural practices. As a result, EPA concludes that no additional margin of exposure (safety) is necessary.

Moreover, based on the same data and EPA analyses as presented in this unit, the Agency is able to conclude that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T when it is used as labeled and in accordance with good agricultural practices as a pre- or post-emergent herbicide. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information. EPA has arrived at this conclusion because, considered collectively, the data and information available on killed, nonviable *Streptomyces acidiscabies* strain RL–110^T do not demonstrate toxic potential to mammals, including infants and children.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons stated in this document and because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

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

The Codex has not established a MRL for killed, nonviable *Streptomyces acidiscabies* strain RL–110^T.

C. Revisions to Requested Tolerance Exemption

In the **Federal Register** of March 10, 2010, EPA announced Marrone Bio Innovations, Inc.'s filing of a pesticide petition that proposed establishing an exemption from the requirement of a tolerance for residues of *Streptomyces acidiscabies* strain RL–110^T in or on all agricultural commodities. Two modifications have been made to the requested tolerance exemption. First, based upon the data and information available to the Agency, EPA is adding the qualifiers ''killed'' and ''nonviable'' before the microorganism's taxonomic name and unique identifier. Use of these qualifiers is now consistent with the representation of this active ingredient in other associated regulatory documents and should assist in preventing confusion regarding its nomenclature in the future. Second, EPA is changing ''in or on all agricultural commodities'' to ''in or on all food commodities'' to align with the terminology the Agency currently uses when establishing tolerance exemptions for residues of other like active ingredients.

VIII. Conclusions

EPA concludes that there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T. Therefore, an exemption from the requirement of a tolerance is established for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T in or on all food commodities when applied as a pre- or post-emergent herbicide and used in accordance with good agricultural practices.

IX. References

1. U.S. EPA. 2012. Biopesticides Registration Action Document Killed, Nonviable *Streptomyces acidiscabies* strain RL–110^T Revised April 22, 2012 (available as ''Supporting & Related Material'' within docket ID number EPA–HQ–OPP–2010–0079–0019 at *http://www.regulations.gov*).

2. Murray PR, EJ Baron, JH Jorgensen, ML Landry, MA Pfaller, editors. 2007. Manual of Clinical Biology. Vol.1. 9th Ed. Washington (DC): ASM Press.

3. Doumbou CL, Akimov V, Beaulieu C. 1998. Selection and characterization of microorganisms utilizing thaxtomin A, a phytotoxin produced by *Streptomyces scabies. Applied and Environmental Microbiology* 64:4313–4316.

4. Centers for Disease Control and Prevention. 2009. Drinking Water—Water Treatment. Available from *http://www.cdc.gov/healthywater/drinking/public/water_treatment.html.*

5. Faucher E, Savard T, Beaulieu C. 1992. Characterization of actinomycetes isolated from common scab lesions on potato-tubers. *Canadian Journal of Plant Pathology* 14:197–202.

6. Loria R, Kers J, Joshi M. 2006. Evolution of plant pathology in *Streptomyces. Annual Review of Phytopathology* 44:469–487.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

This action does not involve any technical standards that would require EPA consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 25, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1314 is added to subpart D to read as follows:

§ 180.1314 Killed, nonviable *Streptomyces acidiscabies* strain RL–110^T; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of killed, nonviable *Streptomyces acidiscabies* strain RL–110^T in or on all food commodities when applied as a pre- or post-emergent herbicide and used in accordance with good agricultural practices.

[FR Doc. 2012–14243 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0245; FRL–9352–4]

RIN 2070–ZA16

Methyl Bromide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of methyl bromide in or on cotton, undelinted seed under the Federal Food, Drug, and Cosmetic Act (FFDCA) because there is a need for imported undelinted cottonseed for use as additional feed for dairy cattle in the United States.

DATES: This regulation is effective June 13, 2012. Objections and requests for hearings must be received on or before August 13, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0245; FRL–9352–4, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Kimberly Nesci, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8059; email address: *nesci.kimberly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are

not limited to those engaged in the following activities:

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

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0245 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 13, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any Confidential Business Information (CBI) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0245, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of April 6, 2012 (77 FR 20752) (FRL–9345–1), EPA issued a proposed rule pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3). The rule proposed that 40 CFR 180.124 be created to establish a tolerance for residues of methyl bromide, including metabolites and degradates in or on cotton, undelinted seed at 150 parts per million (ppm). EPA issued a proposed rule that explained the basis for EPA's conclusion that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from exposure to methyl bromide on cottonseed because there will be no human dietary exposure to methyl bromide from the use of methyl bromide to fumigate cottonseed. The proposal established a 60-day public comment period. Comments were received in response to the proposed rule. EPA's response to these comments is discussed in Unit III.

III. Response to Comments

Comments were received in response to the proposed rule from a large dairy producer trade association, from a dairy industry expert, and from two other individuals. The comments from the dairy producer trade association and from the dairy industry expert are in support of the establishment of a tolerance for methyl bromide on cottonseed out of a concern with a shortage of domestically-grown cottonseed. These commenters stressed that ''cottonseed is a uniquely superior feed for dairy cattle because it contains high concentrations of protein, energy (or fat), and fiber; is highly digestible; and has proven to increase milk production. The commenters argued that alternative feeds are not ''equivalent substitutes'' because they do not contain a similar mix of these components and because they are generally more expensive.

The other two comments were adverse to EPA's proposed action. A comment from one anonymous individual objected to the establishment of the tolerance due to the toxic nature of methyl bromide and due to potential effects on the environment. EPA has determined, however, that there would be no human dietary exposure from the use of methyl bromide to fumigate cottonseed. In addition, the safety standard for approving tolerances under section 408 of the FFDCA focuses on potential harm to human health. Environmental and non-target species considerations are outside of the scope of this rule.

The second comment from another individual raised several issues. EPA is responding to these issues by topic. First, the individual argues that EPA should, in collaboration with the United States Department of Agriculture (USDA), establish the necessity of cottonseed as feed for cattle by analyzing the supply and demand of cottonseed and available alternatives prior to approving a methyl bromide pesticide tolerance. The commenter also asserts that EPA implies that cottonseed is the only dairy cattle feed available. EPA's response to this concern is twofold. First, and most important, EPA's discussion of the decreased availability of cottonseed in the proposed rule was included only for the purpose of explaining the context of the Agency action. It did not provide the legal basis for the proposed tolerance. The legal standard for the establishment of a tolerance is whether the tolerance is safe. 21 U.S.C. 346a(b)(2)(A)(i). The degree of shortage of cottonseed does not affect this safety determination. Thus, both this comment and the comments from the trade association and dairy expert do not address the legal basis for establishing the proposed methyl bromide tolerance on cottonseed. Second, while not relevant to the ultimate decision on safety, EPA's statements regarding the current shortage of cottonseed were accurate. According to USDA, drought conditions in Texas have reduced cotton production by 13% between the 2010/2011 and 2011/2012 seasons. In 2011, the average U.S. yield of cotton per harvested acre was the lowest it had been since 2003. Moreover, as noted in the proposal and as supported by the

commenters familiar with the dairy industry, cottonseed is an important source of protein, energy, and fiber in the dairy cattle diet. It generally comprises up to 15 percent of the daily dietary dry matter intake of lactating diary cattle.

The commenter questions two decisions and assumptions made by EPA in its decision to establish a tolerance: The use of fumigation trials on tree nuts as a surrogate for cottonseed and the assumption that methyl bromide would undergo chemical reactions in the digestive system of dairy cattle. The Agency believes that nuts are an adequate surrogate in the case of methyl bromide commodity fumigation. In controlled trials with numerous commodities, nuts had the highest residues of any commodity. Studies with other small seeds such as poppy seeds and sesame seeds showed residues of 35 ppm, in contrast to the nuts where a maximum residue of 138 ppm was observed. To be protective, the Agency chose to translate from nuts to cottonseed, since they both contain oils. While the Agency does not have specific studies on the metabolism of methyl bromide in cattle, oral metabolism studies in rats have indicated methyl bromide undergoes chemical transformations in the digestive system to compounds that are thought to be less toxic. Ruminants such as cattle have complex digestive systems with four compartments, including a fermentation chamber. Therefore, given the complexity of the ruminant digestive system, there is considerably more opportunity for digestion and detoxification of a simple molecule such as methyl bromide in cattle as compared to rats. Finally, the commenter also claims that EPA failed to consider the impact of methyl bromide pesticide levels in cottonseed used as feed on the health of livestock. EPA expects methyl bromide exposure to cattle to be very low. Cottonseed is very unlikely to comprise more than 15% of the dairy cattle diet and cottonseed and residues of methyl bromide in all other potential feed items are much lower than the levels anticipated in cottonseed. Further, residues of methyl bromide in the cottonseed will be very low, as the residues will largely dissipate after fumigation, especially given the time needed to ship cottonseed to the United States. For commodity fumigations with methyl bromide the Agency generally sets tolerances based on residue levels 24 hours after completion of fumigation. Commodities such as nuts and cottonseed are stored for much longer than 24 hours before they are distributed for consumption. Controlled trials with nuts as well as other commodities indicate that residues dissipate considerably with time. For example, residues in nuts dissipated to residues ranging from <0.1 to 11 ppm after only 1 week of storage. Mammalian oral toxicity studies available to the Agency indicate that much higher concentrations of methyl bromide in the diet would be needed to elicit any sort of toxic effect (the maximum reasonable dietary burden for dairy cattle is approximately 20 ppm (assuming upper bound residues), and the no-observed effect level in long-term oral toxicity studies in rats is approximately 50 ppm).

The commenter asserts that approving the use of methyl bromide fumigation on cottonseed imports will increase occupational exposure to methyl bromide and requests that EPA weigh the risks of occupational exposure against the benefits of imported cottonseed. However, under the existing legal framework provided by section 408 of the FFDCA EPA is authorized to establish pesticide tolerances or exemptions where it has been demonstrated that the tolerance meets the safety standard imposed by that statute. In making this determination, EPA is specifically prohibited from considering occupational exposure to a pesticide. 21 U.S.C. 346a(b)(2)(D)(vi). If an applicant sought to register methyl bromide for use in the United States, the issue of risks from occupational exposure would be considered by EPA in making a determination on registration of such a use under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method, the head-space procedure of King et al. is available for enforcement of methyl bromide tolerances. Samples are blended with water at high speed in airtight jars for 5 minutes. After 15 minutes, the partitioned gas phase is sampled and analyzed by gas chromatography with electron capture detection (GC/EC). See the February 22, 2002, Residue Chemistry Chapter for the methyl bromide RED available in Docket EPA–HQ–OPP–2005–0123.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for methyl bromide on cottonseed.

V. Conclusion

Based on the information, analysis, and conclusions in the April 6, 2012 proposal (77 FR 20752) (FRL–9345–1), as well as the consideration of public comments discussed herein, a tolerance is established for residues of methyl bromide in or on cottonseed at 150 ppm.

VI. Statutory and Executive Order Reviews

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

Pursuant to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this rule will not have significant negative economic impact on a substantial number of small entities. Establishing a pesticide tolerance or an

exemption from the requirement of a pesticide tolerance is, in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: June 7, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.124 to subpart C to read as follows:

§ 180.124 Methyl Bromide; tolerances for residues.

(a) *General.* A tolerance is established for residues of the fumigant methyl bromide, including metabolites and degradates, in or on the commodity in the table below. Compliance with the tolerance level specified below is to be determined by measuring only methyl bromide.

Commodity	Parts per million
Cotton, undelinted seed	150

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2012–14429 Filed 6–8–12; 4:15 pm]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 77, No. 114
Wednesday, June 13, 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 ENERGY

10 CFR Part 430

[Docket No. EERE–2012–BT–STD–0022]

RIN 1904–AC78

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Energy Conservation Standards for Residential Water Heaters

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) is requesting data and information about the impact of its recently amended energy conservation standards for residential electric water heaters on utility programs that use high-storage-volume (above 55 gallons) electric storage water heaters to reduce peak electricity demand. DOE amended its standards for residential water heaters on April 16, 2010, and compliance with the amended standards is required beginning on April 16, 2015. Of particular relevance, the amended standards for residential water heaters raised the minimum requirements for electric storage water heaters with storage volumes above 55 gallons to levels that are currently achieved through the use of heat pump water heater technology. Utilities have expressed concerns that the amended levels will negatively impact programs designed to reduce peak energy demand by heating water only during off-peak times and storing the water for use during peak demand periods. This request for information solicits feedback on the effects of the amended energy conservation standards for electric storage water heaters on such utility programs.

DATES: DOE will accept written comments, data, and information on this notice until July 13, 2012.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2012–BT–0022 and/or RIN 1904–AC78, by any of the following methods:

- *Email: ResWaterHtrsRFI-2012-STD-0022@ee.doe.gov.* Include EERE–2012–BT–0022 and/or RIN 1904–AC78 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document (Public Participation).

Docket: The docket for this rulemaking is available for review at *www.regulations.gov,* including **Federal Register** notices, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at: *http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR+PS;rpp=50;so=DESC;sb=postedDate;po=0;D=EERE-2012-BT-STD-0022.* The *www.regulations.gov* web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Mr. Ari Altman, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *Ari.Altman@hq.doe.govmailto:.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
  A. Statutory Authority
  B. Background
II. Discussion
  A. Description of Utility Electric Thermal Storage Programs for Water Heaters
  B. Discussion of Utility Company Concerns With April 2010 Water Heater Standards
III. Public Participation
  A. Submission of Comments
  B. Issues on Which DOE Seeks Comment

I. Introduction

The following section briefly discusses the statutory authority underlying the U.S. Department of Energy's (DOE's) standards for residential water heaters, as well as some of the relevant historical background related to the establishment of standards for residential water heaters.

A. Statutory Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and establishes the Energy Conservation Program for Consumer Products Other Than Automobiles,[2] a program covering most major household appliances (collectively referred to as ''covered

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

[2] All references to EPCA in this document refer to the statute as amended through the Energy Independence and Security Act of 2007, Public Law 110–140 (Dec. 19, 2007).

products''), which includes the types of residential water heaters that are the subject of today's notice. (42 U.S.C. 6292(a)(4)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(e)(1)) and directed DOE to conduct two cycles of rulemakings to determine whether to amend standards. (42 U.S.C. 6295(e)(4)) Furthermore, under 42 U.S.C. 6295(m), the agency must periodically review its already established energy conservation standards for a covered product. Under this requirement, the next review that DOE would need to conduct must occur no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.

Under EPCA, this program generally consists of four parts: (1) Testing; (2) labeling; (3) establishing Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling consumer products, and DOE implements the remainder of the program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6293) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. *Id.* The DOE test procedures for residential water heaters currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix E.

DOE must follow specific statutory criteria for prescribing amended standards for covered products. As indicated above, any amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) For certain products, including residential water heaters, if no test procedure has been established for the product, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the imposition of the standard;

3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy and water conservation; and

7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)).

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. See 42 U.S.C. 6295(o)(2)(B)(iii).

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)). A rule prescribing an energy conservation standard for a type (or class) of covered products shall specify a level of energy use or efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products that have the same function or intended use, if the Secretary determines that covered products within such group consume a different kind of energy from that consumed by other covered products within such type (or class); or have a capacity or other performance-related feature that other products within such type (or class) do not have and such feature justifies a higher or lower standard from that which applies (or will apply) to other products within such type (or class). Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

B. Background

Before being amended by the National Appliance Energy Conservation Act of 1987 (NAECA; Pub. L. 100–12), Title III of EPCA included water heaters equipment as covered products. NAECA's amendments to EPCA established energy conservation

standards for residential water heaters, and required that DOE determine whether these standards should be amended. (42 U.S.C. 6295(e)(1); 42 U.S.C. 6295(e)(4)) DOE initially amended the statutorily-prescribed standards for water heaters in 2001 (66 FR 4474 (Jan. 17, 2001)) and amended standards for water heaters for a second time in 2010 (75 FR 20112 (April 16, 2010)) (April 2010 Final Rule).

The energy conservation standards for residential water heaters in the April 2010 Final Rule will apply to products manufactured on or after April 16, 2015. 75 FR 20112. This final rule completed the second amended standards rulemaking for water heaters required under 42 U.S.C. 6295(e)(4)(B). The standards consist of minimum energy factors (EF) that vary based on the storage volume of the water heater, the type of energy it uses (*i.e.,* gas, oil, or electricity), and whether it is a storage, instantaneous, or tabletop model. 10 CFR 430.32(d). The currently applicable water heater energy conservation standards, as well as those that will be applicable starting April 16, 2015, are set forth in Table I.1 below.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL WATER HEATERS

Product class	Energy factor as of January 20, 2004	Energy factor as of April 16, 2015
Gas-fired Water Heater	0.67—(0.0019 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675—(0.0015 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012—(0.00078 × Rated Storage Volume in gallons).
Oil-fired Water Heater	0.59—(0.0019 × Rated Storage Volume in gallons).	EF = 0.68—(0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	0.97—(0.00132 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960—(0.0003 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057—(0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	0.93—(0.00132 × Rated Storage Volume in gallons).	EF = 0.93—(0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-fired Water Heater.	0.62—(0.0019 × Rated Storage Volume in gallons).	EF = 0.82—(0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater.	0.93—(0.00132 × Rated Storage Volume in gallons).	EF = 0.93—(0.00132 × Rated Storage Volume in gallons).

II. Discussion

A. Description of Utility Electric Thermal Storage Programs for Water Heaters

Electric thermal storage (ETS) programs, also known as load shifting or demand response programs, are potentially an effective way for utilities to manage peak demand load by limiting the times when certain appliances are operated. As part of such programs, utilities typically provide an incentive for consumers (such as reduced electricity rates, subsidized cost of a new appliance, or annual fixed payment incentives) to enroll in a program allowing the utility company to control when the appliance cycles on and off. The appliance is cycled on during off-peak hours, and the electricity consumed is stored by the appliance as thermal energy for use during peak demand times. In the case of water heaters, the utility typically offers some incentive for its customers to enroll in the ETS program, and in return the utility is allowed to control the operation of the customer's water heater (typically through using either a timed switch or a radio controlled switch) in a manner that prevents the appliance from turning on during peak load times and forces the water heating operation to occur during off-peak demand times. Several stakeholders (including the National Rural Electric Cooperative Association (NRECA), PJM Interconnection, American Public Power Association (APPA), and Steffes Corporation) have indicated to DOE that the consumer is often responsible for the purchase and installation cost of the water heater, but such cost may be offset in part by the utility, and the utility typically covers the cost of the control technology with no charge to the consumer. Since these programs allow water heating only during non-peak times, the heated water must be stored in the tank to meet consumer needs during peak demand times. Because the water heater cannot operate during peak demand times, these programs typically utilize electric storage water heaters with a larger tanks than would otherwise be required to meet the typical demand required by the consumer. The additional tank storage capacity ensures that the consumer will have enough hot water to meet their needs without the need for power during peak-demand hours.

The Department is aware of numerous ETS load shifting programs for residential water heaters in the United States. According to Great River Energy and Arrowhead Electric Cooperative, there are more than 100 electric cooperatives nationwide that have installed more than 150,000 ETS water heaters in 20 states. Information provided by utilities indicates a similar estimate, as a recent survey showed 109 cooperatives in 22 states using such programs with more than 150,000 water heaters. Additionally, the utilities noted that the number of programs nationwide is growing, with 22 additional cooperatives in 7 other states considering adopting similar programs. As noted above, these programs typically employ large electric storage water tanks capable of heating enough water during off-peak demand times to serve consumers during peak demand times when the water heater would not be powered. These tanks are ideal because they are highly insulated and make use of the heated water as a thermal storage device, storing the energy conducted to the water from the electric resistance element for later use.

DOE believes that ETS programs offer benefits to both utilities and consumers. Because ETS programs force water heating to occur during off-peak times, the energy used for heating water is from sources that are potentially less expensive and less polluting than sources that must be used during peak demand times. The utilities indicated that a survey found that 49 cooperatives use ETS programs to store energy from wind generation and 52 cooperatives

use such programs to store electricity generated from hydroelectric sources. The ability to utilize less expensive energy sources reduces operating costs for utilities and results in savings which potentially can be passed on to consumers in the form of lower electricity rates or other financial incentives provided by utilities. The utilities noted that the benefits to consumers include rebates to offset the initial cost of the water heater, discounted utility bills, off-peak pricing, free water heater maintenance, and lower overall rates due to the reduction of the utility's costs. In addition, the utilities noted that benefits to utility companies included reduced wholesale demand charges, reduced costs of operating less efficient peaking generators, less exposure to wholesale spot market prices, reduced capacity obligations, emergency load control system regulation, storage of energy generated by renewable resources during off-peak periods, lower transmission system congestion, and improved distribution system operations. Lastly, the utilities commented that the programs provide benefits to the Nation because they mitigate environmental impacts by lowering carbon emissions from fossil fuel resources through enabling greater penetration and utilization of renewable energy assets, facilitating more efficient operation of existing base load generating plants, and delaying construction of new generating plants.

While DOE recognizes that these programs are valuable to utilities in their efforts to reduce peak demand loads, to consumers in reducing overall costs, and to the Nation in allowing for increased use of renewable energy resources and reduced emissions from fossil fuels, it is not apparent that these programs reduce energy consumption. In fact, DOE believes that the additional standby losses from storing water in a large storage tank and at an increased temperature may increase energy consumption as compared to using a smaller tank and heating the water when it is needed.

The Department is interested in receiving comment and information on utility ETS programs for residential water heaters. In particular, DOE would like to receive data and information on the penetration of such programs throughout the U.S. (i.e., what percentage of total water heaters installed are used in these programs), data on the financial benefits to consumers, and information on the energy savings (if any) or other National benefits that are achieved through the use of such programs. This is identified as issue 1 in section III.B, ''Issues on Which DOE Seeks Comment.''

B. Discussion of Stakeholder Concerns With April 2010 Water Heater Standards

In response to the April 2010 Final Rule amending the energy conservation standards for water heaters, stakeholders (*i.e.,* NRECA, PJM Interconnection, APPA, and Steffes Corporation) indicated concerns about the energy conservation standard established for electric storage water heaters with tanks having greater than 55 gallons of storage volume and about the impact that such standards would have on existing ETS programs. As discussed above, large electric storage water heaters (over 55 gallons of storage volume) are a key component of utility ETS programs to allow the hot water tank to store enough water to meet consumer demand during peak demand times when the water heater would not be allowed to turn on. As shown in Table I.1, the April 2010 Final Rule established an energy conservation standard that would effectively require the use of heat pump technology to meet the minimum standard for electric storage water heaters with storage volumes above 55 gallons. Although ETS programs may be able to utilize heat pump water heaters (HPWH), utility companies are concerned that the increase in the initial cost of HPWH units as compared to purchasing a smaller electric resistance unit (such as a 50 gallon water heater, which is often adequate for typical residential use) would discourage consumers from participating in load shifting programs. Utilities may not be able to offer enough incentives to overcome the increase in first cost of a large HPWH, resulting in decreased customer participation in ETS programs. In addition, utilities believe the technological differences of heat pump water heaters are such that they may not always be able to fill the same role as large-volume electric resistance water heaters. Utilities have indicated that the ability of electric resistance water heaters to 'super heat' water to 170 °F is a key component in increasing the water heater capacity such that it can meet consumer demand without operating during peak times. Utilities contend that heat pump water heaters cannot provide the 'super heating' capabilities of electric resistance water heaters because the refrigeration cycle of commercially available heat pump water heaters limits the maximum water temperature due to efficiency and reliability issues with the compressor as the water temperature is raised. While DOE agrees this is true when the water heater operates in the heat pump mode, DOE notes that heat pump water heaters currently on the market are equipped with electric resistance backup heating. The use of the backup resistance elements would allow a heat pump water heater to heat water to a much higher temperature comparable to the temperatures that can be achieved by conventional electric resistance water heaters.

DOE recognizes that the potential elimination of utility ETS programs due to the efficiency requirements in the April 2010 Final Rule for large-volume electric water heaters would have the potential to increase peak-demand load and may impact both utilities and consumers participating in such programs. If consumers who otherwise would have purchased a large-volume electric resistance tank and participated in an ETS program instead purchase a smaller size tank (*e.g.,* 50-gallon) and do not participate in the ETS program, the result may be reduced cost savings to consumers (as compared to the situation before the water heater standards were amended) and increased peak loads for utilities. DOE notes that increased usage of heat pump water heaters could mitigate some of these concerns because heat pump water heaters are comparatively much more efficient than electric resistance water heaters, which will reduce electricity demand at all times, especially during peak times. In contrast, DOE believes that the use of larger storage tanks for ETS programs may use more electricity than would be consumed if ETS programs were phased out by utilities due to the unavailability of large-volume electric resistance water heaters.

As a result of the concerns with the standards promulgated in the April 2010 Final Rule, some stakeholders have requested that DOE consider the creation of a new product class of electric water heaters for ''grid-interactive water heaters.'' These stakeholders proposed that such products would be defined as an electric storage water heater that has: (1) A storage tank volume greater than 55 gallons; (2) a control device capable of receiving communication from a grid operator, electric utility, or other energy services company that provides real-time control of the heating element; (3) and agreement to be enrolled in a grid operator, electric utility, or other energy services company program to provide demand response or other electric grid services; and (4) a thermostatic mixing valve if the water heater is capable of heating water greater than 120 °F. DOE is considering its legal authority to promulgate such a rule. As it does so,

DOE is seeking additional information regarding the potential effects of the current standard and the potential benefits of the proposals above.

DOE is interested in receiving comment on potential solutions to mitigate the concerns of utility companies described above, including the creation of a new product class for ''grid-interactive storage water heater,'' as proposed by the utilities. Other possible solutions may include: (1) A waiver system that would allow manufacturers to produce small quantities of electric resistance models at storage volumes above 55 gallons and sell them directly to utilities that operate such programs; (2) using multiple smaller water heaters in place of a single large water heater to satisfy the needs of consumers who participate in these programs; or (3) using large-storage-volume heat pump water heaters to satisfy the needs of consumers who participate in these programs. DOE is interested in receiving comment on the merits and drawbacks of the potential solutions identified, as well as any other potential solutions that could address this issue. This is identified as issue 2 in section III.B, ''Issues on Which DOE Seeks Comment.''

III. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this request for information until the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at

(202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this request for information, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. Information on the effects of utility programs designed to reduce peak energy demand by heating water only during off-peak times and storing the water for use during peak demand periods. In particular, DOE is interested in information on the penetration of residential water heater load shifting programs throughout the U.S. (*i.e.,* what percentage of total water heaters installed are used in these programs), the economic benefits of such programs to consumers, and the energy impacts (if any) or other National benefits that are achieved through the use of such programs.

2. Information on the effects of the amended energy conservation standards for electric storage water heaters with rated storage volumes above 55 gallons on utility programs designed to reduce peak energy demand by heating water only during off-peak times and storing the water for use during peak demand periods.

3. Information on capacity or other performance-related feature(s) for residential water heaters which other water heaters do not have that are used in demand-response programs and whether such feature(s) justifies a separate standard from that which will apply to other electric water heaters with rated storage volumes above 55 gallons.

4. Information on potential solutions that would resolve the concerns of utilities that administer load shifting programs for residential water heaters that require the use of large-volume electric storage water heaters, including the potential approaches identified in this RFI.

Issued in Washington, DC, on June 6, 2012.

Kathleen B. Hogan,

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

[FR Doc. 2012–14402 Filed 6–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0816; Directorate Identifier 2011–CE–022–AD]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam srl Airplanes

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

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

SUMMARY: We are revising an earlier NPRM for Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking, bulging, deformation, or oil leakage in the lower lid of the landing gear emergency accumulator, which could result in decreasing the airplane's structural integrity and jeopardizing the landing gear emergency extension in case of system failure in normal mode. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 30, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Costruzioni Aeronautiche TECNAM Airworthiness Office, Via Maiorise—81043 Capua (CE) Italy; telephone: +39 0823 620134; fax: +39 0823 622899; email: *m.oliva@tecnam.com* or *p.violetti@tecnam.com;* Internet: *www.tecnam.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0816; Directorate Identifier 2011–CE–022–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 proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on August 8, 2011 (76 FR 48045). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM (76 FR 48045, August 8, 2011) was issued, TECNAM found that the replacement part number could cause a deformation of the

emergency accumulator, so TECNAM has developed a modification for the landing gear extension emergency accumulator and revised the service information to include instructions for that modification.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2012–0043, dated March 19, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During a pre-flight inspection of a P2006T aeroplane, the lower skin of the fuselage aft tail cone was found damaged. This damage was caused by the lower lid of the LG emergency accumulator, which had detached from the LG emergency accumulator, violently hitting the lower skin of the fuselage aft tail cone and damaging the accumulator cylinder.

This condition, if not detected and corrected, could impair the aeroplane structural integrity and jeopardize the LG emergency extension in case of system failure in normal mode.

For the reasons described above, EASA issued Emergency AD 2011–0063–E to require a one-time inspection of the LG emergency accumulator cylinder for cracks, deformation or oil leakage and, depending on findings, the accomplishment of the applicable corrective actions.

After that AD was issued, Costruzioni Aeronautiche TECNAM developed a modification (MOD 2006–108) and published Service Bulletin (SB) SB–048–CS Revision 1, dated 06 July 2011, that contained the instructions for that modification. Prompted by this development, EASA issued PAD 11–070 for consultation until 16 August 2011, proposing to require incorporation of this modification on all affected aeroplanes, and to require certain post-modification repetitive inspections.

During the consultation period of PAD 11–070, an operator who had applied Costruzioni Aeronautiche TECNAM SB–048–CS on his aeroplane, reported finding abnormal deformation of the emergency accumulator, to such an extent that it would jeopardize the LG emergency extension in case of system failure in normal mode. To address this additional safety concern, Costruzioni Aeronautiche TECNAM issued SB–068–CS which contains instructions to inspect post-modification aeroplanes.

For the reasons described above, EASA AD 2011–0153–E retained the requirements of EASA AD 2011–0063–E, which was superseded, and required modification of the landing gear emergency accumulator by installation of safety rings and repetitive inspections after modification. In addition, prompted by the recent post-modification findings, EASA AD 2011–0153–E reduced the compliance time for the modification as originally proposed and required additional first-flight-of-the-day repetitive inspections for the LG emergency accumulator cylinder and replacement of the LG emergency accumulator if cracks, deformation, or oil leakage is detected.

AD Revision 2011–0153R1 was issued in order to allow Pilot-Owners to accomplish the daily pre-flight inspection of the modified LG emergency accumulator.

After that AD Revision, Costruzioni Aeronautiche TECNAM designed a new LG emergency accumulator part number 26–9–9500–000, identified as modification MOD 2006–121, and published SB–080–CS dated 02 January 2012, which contains instructions for replacement and installation of the newly designed LG emergency accumulator.

This AD, which supersedes EASA AD 2011–0153R1, requires the installation of the new landing gear emergency accumulator part number 26–9–9500–000, as well as to inspect after the installation the LG emergency accumulator and the LG retraction/extension system.

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

Relevant Service Information

Costruzioni Aeronautiche TECNAM has issued Service Bulletin No. SB 80–CS, dated January 2, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Certain changes described above expand the scope of the earlier NPRM. 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 the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 7 products of U.S. registry. We also estimate that it would take about 7 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 $1,300 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $13,265, or $1,895 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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

Costruzioni Aeronautiche Tecnam srl: Docket No. FAA–2011–0816; Directorate Identifier 2011–CE–022–AD.

(a) Comments Due Date

We must receive comments by July 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes, serial numbers (S/N) 001/US through S/N 88/US, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This proposed AD was prompted by cracking, bulging, deformation, or oil leakage in the lower lid of the landing gear emergency accumulator, which could result in decreasing the airplane's structural integrity and jeopardizing the landing gear emergency extension in case of system failure in normal mode. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 90 days after the effective date of this AD, replace the landing gear (LG) emergency accumulator with a new emergency accumulator part number 26–9–9500–000, following the instructions in Costruzioni Aeronautiche Tecnam Service Bulletin SB 80–CS, dated January 2, 2012.

(2) Within 300 hours time-in-service (TIS) after compliance with paragraph (f)(1) of this AD and repetitively thereafter at intervals not to exceed 300 hours TIS, inspect the LG emergency accumulator and the LG retraction/extension system for damage and leakage following the applicable instructions in Costruzioni Aeronautiche TECNAM P2006T Aircraft Maintenance Manual Chapter 5, Inspection Program.

(3) If any damage or leakage is found as a result of any inspection required in paragraph (f)(2) of this AD, before further flight, do the applicable corrective actions following the instructions in Costruzioni Aeronautiche TECNAM P2006T Aircraft Maintenance Manual, Document No. 2006/045, 2nd Edition—Revision 1, dated April 27, 2011.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: albert.mercado@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012–0043, dated March 19, 2012; Costruzioni Aeronautiche Tecnam Service Bulletin SB 80–CS, dated January 2, 2012; Costruzioni Aeronautiche TECNAM P2006T Aircraft Maintenance Manual Chapter 5, Inspection Program; and Costruzioni Aeronautiche Tecnam P2006T Maintenance Manual, 2nd Edition, Revision 1, dated April 7, 2011, for related information. For service information related to this AD, contact Costruzioni Aeronautiche TECNAM Airworthiness Office, Via Maiorise—81043 Capua (CE) Italy; telephone: +39 0823 620134; fax: +39 0823 622899; email: *m.oliva@tecnam.com, p.violetti@tecnam.com;* Internet: *www.tecnam.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on June 7, 2012.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–14368 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0601; Directorate Identifier 2008–SW–033–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the Bell Helicopter Textron, Inc. (BHTI) Model 205A, 205A–1, and 205B helicopters with certain starter/generator power cable assemblies (power cable assemblies). This proposed AD is prompted by the determination that the power cable assembly connector (connector) can deteriorate, causing a short in the connector that may lead to a fire. This AD would require replacing the power cable assemblies and their associated parts, and performing continuity readings. We are proposing this AD to prevent a short in the connector that may lead to a fire in the starter/generator, smoke in the cockpit that reduces visibility, and subsequent loss of helicopter control.

DATES: We must receive comments on this proposed AD by August 13, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 economic 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 service information identified in this proposed AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone (817) 280–3391; fax (817) 280–6466; or at *http://www.bellcustomer.com/files/*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Andy Shaw, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *andy.shaw@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

We propose to adopt a new AD for the BHTI Model 205A, 205A–1, and 205B helicopters with power cable assemblies, part number (P/N) 205–075–902–017 and P/N 205–075–911–007. The AD would require replacing the power cable assemblies with airworthy power cable assemblies, P/N 205–075–265–103 and 205–075–265–105S, and replacing associated parts included in the starter/generator cable kit, P/N CT205–07–94–1. After the power cable assemblies and associated parts are replaced, the AD would require performing a continuity test at the power cable connections using a multimeter. This proposal is prompted by the determination that the connector can deteriorate, causing a short in the connector P81 (J81) pins. This condition, if not corrected, could result in a fire in the starter/generator, smoke in the cockpit that could reduce visibility, and subsequent loss of structural integrity and helicopter control.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

We have reviewed BHTI Alert Service Bulletin (ASB) No. 205–07–94, Revision A, dated December 8, 2008, for Model 205A and 205A–1 helicopters; and BHTI ASB No. 205B–08–50, dated December 8, 2008, for the Model 205B helicopter. These ASBs describe procedures for replacing the power cable assemblies and associated parts. The ASBs specify that operators can obtain a starter/generator cable kit that contains the required replacement parts.

Proposed AD Requirements

This proposed AD would require, within six months, replacing the power cable assemblies and associated parts with airworthy parts contained in the starter/generator kit, and performing a continuity test using a multimeter. The actions would be required to be accomplished by following specified portions of the ASBs described previously.

Costs of Compliance

We estimate that this proposed AD would affect 31 helicopters of U.S. registry. The proposed actions would take about 10 work-hours per helicopter to accomplish at an average labor rate of $85 per work hour. Required parts would cost about $12,654 for the power cable assembly replacement kit. Based on these figures, the cost of the proposed AD on U.S. operators would be $13,504 per helicopter, or $418,624 for the fleet.

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, 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 to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic 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 Airworthiness Directive (AD):

Bell Helicopter Textron, Inc. (BHTI): Docket No. FAA–2012–0601; Directorate Identifier 2008–SW–033–AD.

(a) Applicability

This AD applies to BHTI Model 205A, 205A–1, and 205B helicopters with starter/generator power cable assemblies (power cable assemblies), part numbers (P/N) 205–075–902–017 and P/N 205–075–911–007 installed, certificated in any category.

(b) Unsafe Condition

This AD was prompted by the determination that the power cable assembly connector (connector) can deteriorate, causing a short in the connector that may lead to a fire. We are issuing this AD to prevent a short in the connector that may lead to a fire in the starter/generator, smoke in the cockpit that reduces visibility, and subsequent loss of helicopter control.

(c) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(d) Required Actions

Within six months, replace the power cable assemblies using the parts contained in starter/generator kit P/N CT205–07–94–1, perform a continuity test, and connect wires to the starter generator as follows:

(1) For Model 205A and 205A–1 helicopters, follow the Accomplishment Instructions, paragraphs 2 through 16(c), of BHTI Alert Service Bulletin No. 205–07–94, Revision A, dated December 8, 2008.

(2) For the Model 205B helicopters, follow the Accomplishment Instructions, paragraphs 2 through 16(c), of BHTI Alert Service Bulletin No. 205B–08–50, dated December 8, 2008.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Andy Shaw, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *andy.shaw@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(f) Additional Information

For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone (817) 280–3391; fax (817) 280–6466; or at *http://www.bellcustomer.com/files/.* You may review the information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 2497, electrical power system wiring.

Issued in Fort Worth, Texas, on May 25, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–14401 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2012–0561; Airspace Docket No. 12–AEA–7]

Proposed Amendment of Restricted Area R–6601; Fort A.P. Hill, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to expand the vertical limits and time of designation of restricted area R–6601, Fort A.P. Hill, VA. The U. S. Army requested this action to provide the additional airspace needed to conduct training in high-angle weapons systems employment.

DATES: Comments must be received on or before July 30, 2012.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2012–0561 and Airspace Docket No. 12–AEA–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. Comments on environmental and land use aspects to should be directed to: Director of Environmental and Natural Resources Division, Attn: Ms. Terry Banks, U.S. Army Garrison, Fort A.P. Hill, VA 22427; telephone: (804) 633–8223.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2012–0561 and Airspace Docket No. 12–AEA–7) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2012–0561 and Airspace Docket No. 12–AEA–7.'' The postcard will be date/time stamped and returned to the commenter.

Comments on environmental and land use aspects to should be directed to: Director of Environmental and Natural Resource Division, U.S. Army Garrison, Fort A.P. Hill, VA, 22427; telephone: 804–633–8223.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in

person at the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Fort A.P. Hill has a continuing requirement to conduct training in the use of various high- angle weapons systems. This training cannot be contained within the current 5,000-foot MSL ceiling of restricted area R–6601. Currently, this training is conducted in a controlled firing area (CFA) situated above R–6601. However, the FAA determined that the activities no longer meet the criteria for a CFA. As a result, military units have had to cancel high-angle weapon system training. Recurring training in these events is necessary to maintain currency. This training is even more critical for units that are preparing to deploy into a theater of operations where the use of these tactics is required.

The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to expand the vertical limits and the time of designation for restricted area R–6601, Fort A.P. Hill, VA. R–6601 currently extends from the ''surface to 5,000 feet MSL,'' with a time of designation of ''0700 to 2300 local time daily; other times by NOTAM at least 48 hours in advance.''

The proposed new restricted airspace would extend up to 9,000 feet MSL and would consist of three sub-areas designated R–6601A, R–6601B and R–6601C. R–6601A would extend from the surface to but not including 4,500 feet MSL, instead of the current 5,000 feet MSL for R–6601. R–6601B would extend from 4,500 feet MSL to but not including 7,500 feet MSL; and R–6601C would extend from 7,500 feet MSL to 9,000 feet MSL. Subdividing the airspace in this manner would allow activation of only that portion of restricted airspace required for training while leaving the remaining airspace available for other users. In addition, a Letter of Agreement would be concluded between the using and controlling agencies stipulating that the controlling agency can recall the airspace in the event of Severe Weather Avoidance Plan (SWAP) implementation, weather diverts and emergencies.

R–6601A would have the same lateral boundaries as the original R–6601. R–6601B and R–6601C would overlie the boundaries of R–6601A, except at the northeast end where the shared R–6601B and R–6601C boundary would be moved southwesterly approximately ¾ mile from R–6601A's northeastern boundary. This would provide a buffer between R–6601B and C and the centerline of VOR Federal airway V–386.

The proposed time of designation for R–6601A would be changed from the current ''0700 to 2300 local time daily,'' to ''0700 to 0200 local time daily,'' an increase of three hours daily. In addition, the advance NOTAM requirement for activation of R–6601A at other times would be reduced from the current 48 hours to 24 hours. The time of designation for both R–6601B and R–6601C would be ''By NOTAM 24 hours in advance.''

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in SubtitleVII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would restructure the restricted airspace at Fort A.P. Hill, VA, to support essential military training activities.

Environmental Review

This proposal will be subjected to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited Areas, Restricted Areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.66 (Amended)

2. § 73.66 is amended as follows:

* * * * *

1. R–6601 Fort A.P. Hill, VA [Remove]

2. R–6601A Fort A.P. Hill, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N., long. 77°18′44″ W.; then along U.S. Highway 301; to lat. 38°09′45″ N., long. 77°11′59″ W.; then along U.S. Highway 17; to lat. 38°07′50″ N., long. 77°08′29″ W.; to lat. 38°05′30″ N., long. 77°09′05″ W.; to lat. 38°04′40″ N., long. 77°10′19″ W.; to lat. 38°03′12″ N., long. 77°09′34″ W.; to lat. 38°02′22″ N., long. 77°11′39″ W.; to lat. 38°02′30″ N., long. 77°14′39″ W.; to lat. 38°01′50″ N., long. 77°16′07″ W.; to lat. 38°02′15″ N., long. 77°18′03″ W.; to lat. 38°02′40″ N., long. 77°18′59″ W.; then to the point of beginning.

Designated altitudes. Surface to but not including 4,500 feet MSL.

Time of Designation. 0700 to 0200 local time daily. Other times by NOTAM 24 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort A.P. Hill, VA.

3. R–6601B Fort A.P. Hill, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N., long. 77°18′44″ W.; then along U.S. Highway 301 to lat. 38°09′38″ N., long. 77°12′07″ W.; to lat. 38°07′09″ N., long. 77°08′40″ W.; to lat. 38°05′30″ N., long. 77°09′05″ W.; to lat. 38°04′40″

N., long. 77°10′19″ W.; to lat. 38°03′12″ N., long. 77°09′34″ W.; to lat. 38°02′22″ N., long. 77°11′39″ W.; to lat. 38°02′30″ N., long. 77°14′39″ W.; to lat. 38°01′50″ N., long. 77°16′07″ W.; to lat. 38°02′15″ N., long. 77°18′03″ W.; to lat. 38°02′40″ N., long. 77°18′59″ W.; then to the point of beginning.

Designated altitudes. 4,500 feet MSL to but not including 7,500 feet MSL.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort A.P. Hill, VA.

4. R–6601C Fort A.P. Hill, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N., long. 77°18′44″ W.; then along U.S. Highway 301 to lat. 38°09′38″ N., long. 77°12′07″ W.; to lat. 38°07′09″ N., long. 77°08′40″ W.; to lat. 38°05′30″ N., long. 77°09′05″ W.; to lat. 38°04′40″ N., long. 77°10′19″ W.; to lat. 38°03′12″ N., long. 77°09′34″ W.; to lat. 38°02′22″ N., long. 77°11′39″ W.; to lat. 38°02′30″ N., long. 77°14′39″ W.; to lat. 38°01′50″ N., long. 77°16′07″ W.; to lat. 38°02′15″ N., long. 77°18′03″ W.; to lat. 38°02′40″ N., long. 77°18′59″ W.; then to the point of beginning.

Designated altitudes. 7,500 feet MSL to 9,000 feet MSL.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort A.P. Hill, VA.

Issued in Washington, DC, on June 7, 2012.

Colby Abbott,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2012–14404 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 774

[Docket No. 120202094–2065–01]

RIN 0694–AF54

Revisions to the Export Administration Regulations (EAR): Control of Military Training Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes how articles the President determines no longer warrant control under Category IX (Military Training Equipment and Training) of the United States Munitions List (USML) would be controlled under the Commerce Control List (CCL) in new Export Control Classification Numbers (ECCNs) 0A614, 0B614, 0D614, and 0E614.

This rule is one in a planned series of proposed rules describing how various types of articles the President determines, as part of the Administration's Export Control Reform Initiative, no longer warrant USML control, would be controlled on the CCL and by the EAR. This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of Defense Trade Controls, which would amend the list of articles enumerated in USML Category IX. The revisions in this rule are part of Commerce's retrospective plan under EO 13563 completed in August 2011. Commerce's full plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules.*

DATES: Comments must be received by July 30, 2012.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2012–0023.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AF54 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AF54.

FOR FURTHER INFORMATION CONTACT: Daniel Squire, Office of National Security and Technology Transfer Controls, Sensors and Aviation Division, tel. 202 482 3710, email *daniel.squire@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2011, as part of the Administration's ongoing Export Control Reform Initiative, BIS published a proposed rule (76 FR 41958) (herein ''the July 15 proposed rule'') that set forth a framework for how articles the President determines, in accordance with section 38(f) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(f)), would no longer warrant control on the United States Munitions List (USML) and would be controlled on the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the Export Administration Regulations (EAR). On November 7, 2011, BIS published a rule (76 FR 68675) proposing several changes to the framework initially proposed in the July 15 rule.

Following the structure of the July 15 and November 7 proposed rules, this proposed rule describes BIS's proposal for controlling under the EAR and its CCL military training equipment and related articles now controlled by the ITAR's USML under Category IX but that would no longer be so controlled if the State Department's proposed revision to the Category were to become final. The changes described in this proposed rule and the State Department's proposed companion rule to Category IX of the USML are based on a review of Category IX by the Defense Department, which worked with the Departments of State and Commerce in preparing the proposed amendments. The review was focused on identifying the types of articles that are now enumerated in USML Category IX that are either (i) inherently military and otherwise warrant control on the USML or (ii) common to non-military training equipment applications, possess parameters or characteristics that provide a critical military or intelligence advantage to the United States, and almost exclusively available from the United States. If an article satisfied one or both of those criteria, the article remained on the USML. If an article did not satisfy either standard but was nonetheless a type of article that is, as a result of differences in form and fit, ''specially designed'' for military applications, it was identified in the new ECCNs proposed in this notice. The licensing requirements and other EAR-specific controls for such items described in this notice would enhance national security by permitting the U.S. Government to focus its resources on controlling, monitoring, investigating, analyzing, and, if need be, prohibiting exports and reexports of more significant items to destinations, end uses, and end users of greater concern than our NATO allies and other multi-regime partners.

Pursuant to section 38(f) of the AECA, the President shall review the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law.'' 22 U.S.C. 2778(f)(1).

In the July 15 proposed rule, BIS proposed creating a series of new ECCNs to control items that would be removed from the USML, or that are items from the Munitions List of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies List (Wassenaar Arrangement Munitions List or WAML) that are already controlled elsewhere on the CCL. The proposed rule referred to this series as the ''600 series'' because the third character in each of the new ECCNs would be a ''6.'' The first two characters of the 600 series ECCNs serve the same function as any other ECCN as described in § 738.2 of the EAR. The first character is a digit in the range 0 through 9 that identifies the Category on the CCL in which the ECCN is located. The second character is a letter in the range A through E that identifies the product group within a CCL Category. In the 600 series, the third character is the number 6. With few exceptions, the final two characters identify the WAML category that covers items that are the same or similar to items in a particular 600 series ECCN.

This proposed rule would create four such ECCNs: 0A614, 0B614, 0D614, and 0E614. ECCN 0A614 would control military training equipment and specific ''parts,'' ''components,'' and ''accessories and attachments'' therefor. ECCN 0B614 would control test, inspection, and production ''equipment,'' including related ''parts,'' ''components,'' and ''accessories and attachments,'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A614 or articles controlled by USML Category IX. ECCN 0D614 would control ''software'' for the ''development,'' ''production,'' operation or maintenance of items controlled by ECCNs 0A614 or 0B614. ECCN 0E614 would control ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair or overhaul of commodities controlled by ECCNs 0A614 or 0B614 or ''software'' controlled by ECCN 0D614.

The revisions in this rule are part of Commerce's retrospective plan under EO 13563 completed in August 2011. Commerce's full plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules*.

BIS will publish additional **Federal Register** notices containing proposed amendments to the CCL that will describe proposed controls for additional categories of articles the President determines no longer warrant control under the USML. The State Department will publish concurrently proposed amendments to the USML that correspond to the BIS notices. BIS will also publish proposed rules to further align the CCL with the WAML and the Missile Technology Control Regime Equipment, Software and Technology Annex.

Detailed Description of Changes Proposed by This Rule

New ECCN 0A614: Military Training ''Equipment''

Proposed ECCN 0A614 would impose national security (NS Column 1), regional stability (RS Column 1), and anti-terrorism controls on military training ''equipment'' not controlled by the USML and on most ''parts,'' ''components,'' and ''accessories and attachments'' ''specially designed'' for such military training ''equipment.'' ECCN 0A614 also would apply the same controls to ''parts,'' ''components,'' and ''accessories and attachments'' for military training ''equipment'' controlled by Category IX of the USML unless such ''parts,'' ''components,'' or ''accessories and attachments'' are specifically controlled by the USML or another ECCN on the Commerce Control List. Notes to proposed ECCN 0A614 would identify how specific commodities would be classified under ECCN 0A614, including simulators for non-combat military aircraft, certain radar training units, and training ''equipment'' for ground military operations. ECCN 0A614.y would impose only anti-terrorism controls on specific ''parts,'' ''components,'' and ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by ECCN 0A614 and not specified elsewhere in the CCL.

New ECCN 0B614: Test, Inspection, and Production ''Equipment'' for Military Training ''Equipment'' and ''Specially Designed'' ''Parts,'' ''Components,'' and ''Accessories and Attachments'' Therefor

Proposed ECCN 0B614 would impose national security (NS Column 1), regional stability (RS Column 1), and anti-terrorism controls on test, inspection and production equipment, and on ''parts,'' ''components,'' and ''accessories and attachments'' therefor, that are ''specially designed'' for the ''production'' of commodities controlled by ECCN 0A614 or USML Category IX. ECCN 0B614.y would impose only anti-terrorism controls on specific ''parts,'' ''components,'' and ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by ECCN 0B614 and not specified elsewhere in the CCL.

New ECCN 0D614: ''Software'' Related to Military Training ''Equipment''

Proposed ECCN 0D614 would impose national security, (NS Column 1), regional stability (RS Column 1), and anti-terrorism (AT Column 1) controls on ''software'' ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCNs 0A614 or 0B614 (except the .y paragraphs of these ECCNs). ECCN 0D614.y would impose only anti-terrorism controls on specific ''software'' that is ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities controlled by ECCNs 0A614.y or 0B614.y.

New ECCN 0E614: ''Technology'' (Related to ECCNs 0A014, 0B014, and 0D014)

Proposed ECCN 0E614 would impose national security (NS Column 1), regional stability (RS Column 1), and anti-terrorism (AT Column 1) controls on ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 0A614 or 0B614, or software controlled by 0D614 (except the .y paragraphs of these ECCNs). ECCN 0E614.y would impose only anti-terrorism controls on specific ''technology'' that is ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair or overhaul of commodities controlled by ECCNs 0A614.y or 0B614.y or software controlled by ECCN 0D614.y.

Inclusion of ''.y.99'' Paragraphs in 600 Series ECCNs

Proposed new ECCNs 0A614, 0B614, 0D614 and 0E614 also would contain a paragraph ''.y.99'' that would control any item that meets all of the following criteria: (i) The item is not listed on the CCL; (ii) the item was previously determined to be subject to the EAR in an applicable commodity jurisdiction determination issued by the U.S. Department of State; and (iii) the item would otherwise be controlled under one of these 0x614 ECCNs because, for example, the item was ''specially designed'' for a military use.

Revisions to § 742.6 of the EAR

To implement the regional stability controls that apply to the four new ''600 series'' ECCNs noted above, this proposed rule would revise § 742.6(a)(1) of the EAR to apply the RS Column 1 licensing policy to items classified

under ECCNs 0A614, 0B614, 0D614 and 0E614 (except the .y paragraphs).

Proposed New ECCNs and License Exception STA

The July 15 proposed rule, as modified by the November 7 proposed rule, would preclude use of License Exception STA for end-items in 600 series ECCNs unless eligibility for such use was applied for and approved by BIS. This proposed rule would exempt end items classified under ECCN 0A614 (military training ''equipment'') and classified under ECCN 0B614 (test, inspection and production ''equipment'' for military training ''equipment'') from that requirement. BIS notes this proposed policy by including in the STA paragraphs of these two ECCNs a statement that reads: ''Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0A614 without the need for a determination described in § 740.20(g).'' This provision would prevail over the elements of the July 15 proposed rule, as modified by the November 7 proposed rule, that indicated that ''600 series'' ''end items'' may not be exported, reexported or transferred pursuant to License Exception STA unless those end items have been identified by BIS in writing or published as an eligible item for License Exception STA in response to a License Exception STA eligibility request in accordance with § 740.20(g) of the EAR.

Request for Comments

All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information) will be available for public inspection and copying. Those wishing to comment anonymously may do so by submitting their comment via regulations.gov and leaving the fields for identifying information blank.

Relationship to the July 15 Proposed Rule and the November 7 Proposed Rule

As referenced above, the purpose of the July 15 proposed rule was to set up the framework to support the transfer of items from the USML to the CCL. To facilitate that goal, the July 15 proposed rule contained definitions and concepts that were meant to be applied across categories. However, as BIS undertakes rulemakings to move specific categories of items from the USML to the CCL, there may be unforeseen issues or complications that may require BIS to reexamine those definitions and concepts. The comment period for the July 15 proposed rule closed on September 13, 2011. In the November 7 proposed rule, BIS proposed several changes to those definitions and concepts. The comment period for the November 7 proposed rule closed on December 22, 2011.

To the extent that this rule's proposals affect any provision in either of those proposed rules or any provision in either of those proposed rules affect this proposed rule, BIS will consider comments on those provisions so long as they are within the context of the changes proposed in this rule.

BIS believes that the following aspects of the July 15 proposed rule and the November 7 proposed rule are among those that could affect this proposed rule:

- *De minimis* provisions in § 734.4;
- Restrictions on use of license exceptions in §§ 740.2, 740.10, 740.11, and 740.20;
- Change to national security licensing policy in § 742.4;
- Licensing policy in § 742.4(b)(1)(ii);
- Addition of 600 series items to Supplement No. 2 to Part 744—List of Items Subject to the Military End-Use Requirement of § 744.21;
- Addition of U.S. arms embargo policy regarding 600 series items set forth in § 742.4(b)(1)(ii) (national security) of the July 15 proposed rule to § 742.6(b)(1) (regional stability) of the November 7 proposed rule; and
- Definitions of terms in § 772.1.

Effects of This Proposed Rule

De minimis

The July 15 proposed rule would impose certain unique *de minimis* requirements on items controlled under the new 600 series ECCNs. Section 734.3 of the EAR provides, *inter alia,* that under certain conditions, items made outside the United States that incorporate items subject to the EAR are not subject to the EAR if they do not exceed a *de minimis* percentage of controlled U.S.-origin content. Depending on the destination, the *de minimis* percentage can be either 10 percent or 25 percent. The military training ''equipment'' and the test, inspection and production ''equipment'' for military training ''equipment'' that would be subject to the EAR as a result of this proposed rule would become eligible for *de minimis* treatment.

Use of License Exceptions

Military training ''equipment'' and test, inspection, and production ''equipment'' therefor currently on the USML that would be classified under ECCNs 0A614 and 0B614 would become eligible for several license exceptions, including STA, which would be available for exports to certain government agencies of NATO and other multi-regime close allies. The exchange of information and statements required under STA is substantially less burdensome than are the license application requirements currently required under the ITAR, as discussed in more detail in the ''Regulatory Requirements'' section of this proposed rule. None of the military training ''equipment'' or test, inspection and production ''equipment'' therefor that would be controlled by ECCNs 0A614 or 0B614 would be subject to the provision in the July 15 proposed rule that proposes to preclude the use of License Exception STA for ''600 series'' end items unless approval for such use is sought from and granted by BIS. The items covered by this rule also would be eligible for the following license exceptions: LVS (limited value shipments), up to $1500; TMP (temporary exports); and RPL (servicing and parts replacement).

Alignment With the Wassenaar Arrangement Munitions List

The Administration has stated since the beginning of the Export Control Reform Initiative that the reforms will be consistent with U.S. obligations to the multilateral export control regimes. Accordingly, the Administration will, in this and subsequent proposed rules, exercise its national discretion to implement, clarify, and, to the extent feasible, align its controls with those of the regimes. This proposed rule would align controls on the items that it adds to the CCL by placing them in new 600 series ECCNs ending in ''14'' to parallel Category ML14 on the Wassenaar Arrangement Munitions List ('''Specialised equipment for military training' or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon specified by ML.1 or ML.2, and specially designed components and accessories therefor''). Items in proposed ECCN 0A614 are covered by WAML Category ML 14.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 12, 2011, 76 FR 50661 (August 16, 2011), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted

by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect two approved collections: Simplified Network Application Processing System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the proposed rule published at 76 FR 41958 (July 15, 2011), BIS believes that the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the number of license applications to be submitted by approximately 16,000 annually, resulting in an increase in burden hours of 5,067 (16,000 transactions at 17 minutes each) under control number 0694–0088.

Military training ''equipment,'' related test, inspection, and production ''equipment,'' ''parts,'' ''components,'' ''accessories and attachments,'' ''software'' and ''technology'' formerly on the USML would become eligible for License Exception STA under this rule. As stated in the July 15 proposed rule, BIS believes that the increased use of License Exception STA resulting from combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions @ 1 hour and 10 minutes each).

BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. The largest impact of the proposed rule would likely apply to exporters of replacement parts for military training ''equipment'' that has been approved under the ITAR for export to allies and regime partners. Because, with few exceptions, the ITAR allows exemptions from license requirements only for exports to Canada, most exports of such parts, even when destined to NATO and other close allies, require specific State Department authorization. Under the EAR, as proposed in this notice, such parts as well as non-combat military trainers, certain radar trainers and training ''equipment'' for ground military operations along with related test, inspection, and production ''equipment'' would become eligible for export to NATO and other multi-regime allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration understands that complying with the burdens of STA is likely less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes or both.

Even in situations in which a license would be required under the EAR, the burden is likely to be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of technology controlled by ECCN 0E614 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled technology, *i.e.,* Manufacturing License Agreements and Technical Assistance Agreements.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare an initial regulatory flexibility analysis (IRFA) of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute. However, under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the RFA does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

Number of Small Entities

The Bureau of Industry and Security (BIS) does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number.

Economic Impact

This proposed rule is part of the Administration's Export Control Reform Initiative. Under that initiative, the United States Munitions List (22 CFR part 121) (USML) would be revised to be a ''positive'' list, *i.e.,* a list that does not use generic, catch-all controls on any part, component, accessory, attachment, or end item that was in any way specifically modified for a defense article, regardless of the article's military or intelligence significance or non-military applications. At the same time, articles that are determined to no longer warrant control on the USML would become controlled on the Commerce Control List (CCL). Such items, along with certain military items that currently are on the CCL, will be identified in specific Export Control Classification Numbers (ECCNs) known as the ''600 series'' ECCNs. In addition, some items currently on the Commerce Control List would move from existing ECCNs to the new 600 series ECCNs. In practice, the greatest impact of this rule on small entities would likely be reduced administrative costs and

reduced delay for exports of items that are now on the USML but would become subject to the EAR. This rule addresses Category IX articles, which are: military training ''equipment,'' ''parts,'' ''components,'' and ''accessories and attachments'' therefor; test, inspection, and production ''equipment'' for military training ''equipment'' and ''parts,'' ''components'' and ''accessories and attachments'' therefor; and related ''software'' and ''technology.'' Training ''equipment'' related to certain inherently military functions would remain on the USML. However, parts, components, and ''accessories and attachments'' for that ''equipment'' would be included on the CCL unless expressly controlled on the USML. Such parts and components are more likely to be produced by small businesses than are complete items of training equipment, and would in many cases become subject to the EAR. Moreover, officials of the Department of State have informed BIS that license applications for such parts and components are a high percentage of the license applications for USML articles reviewed by that department.

Changing the jurisdictional status of Category IX items would reduce the burden on small entities (and other entities as well) through:

—Elimination of some license requirements,
—Greater availability of license exceptions,
—Simpler license application procedures, and
—Reduced (or eliminated) registration fees.

In addition, parts and components controlled under the ITAR remain under ITAR control when incorporated into foreign-made items, regardless of the significance or insignificance of the item, discouraging foreign buyers from incorporating such U.S. content. The availability of *de minimis* treatment under the EAR may reduce the incentive for foreign manufacturers to avoid purchasing U.S.-origin parts and components.

Many exports and reexports of the Category IX articles that would be placed on the CCL, as proposed in this rule, particularly parts and components, would become eligible for license exceptions that apply to shipments to U.S. Government agencies, shipments valued at less than $1,500, parts and components being exported for use as replacement parts, temporary exports, and License Exception Strategic Trade Authorization (STA), reducing the number of licenses that exporters of these items would need. License exceptions under the EAR would allow suppliers to send routine replacement parts and low level parts to NATO and other close allies and export control regime partners for use by those governments and for use by contractors building equipment for those governments or for the U.S. Government without having to obtain export licenses. Under License Exception STA, the exporter would need to furnish information about the item being exported to the consignee and obtain a statement from the consignee that, among other things, would commit the consignee to comply with the EAR and other applicable U.S. laws. Because such statements and obligations can apply to an unlimited number of transactions and have no expiration date, they would impose a net reduction in burden on transactions that the government routinely approves through the license application process that the License Exception STA statements would replace.

Even for exports and reexports in which a license would be required, the process would be simpler and less costly under the EAR. When a USML Category IX article is moved to the CCL, the number of destinations for which a license is required would remain unchanged. However, the burden on the license applicant would decrease because the licensing procedure for CCL items is simpler and more flexible than the license procedure for USML articles.

Under the USML licensing procedure, an applicant must include a purchase order or contract with its application. There is no such requirement under the CCL licensing procedure. This difference gives the CCL applicant at least two advantages. First, the applicant has a way of determining whether the U.S. government will authorize the transaction before it enters into potentially lengthy, complex and expensive sales presentations or contract negotiations. Under the USML procedure, the applicant will need to caveat all sales presentations with a reference to the need for government approval and is more likely to have to engage in substantial effort and expense only to find that the government will reject the application. Second, a CCL license applicant need not limit its application to the quantity or value of one purchase order or contract. It may apply for a license to cover all of its expected exports or reexports to a particular consignee over the life of a license (normally two years, but may be longer if circumstances warrant a longer period), reducing the total number of licenses for which the applicant must apply.

In addition, many applicants exporting or reexporting items that this rule would transfer from the USML to the CCL would realize cost savings through the elimination of some or all registration fees currently assessed under the ITAR's licensing procedure. Currently, ITAR applicants must pay to use the ITAR licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,500 per year, increase to $2,750 for organizations applying for one to ten licenses per year and further increases to $2,750 plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. There are no registration or application processing fees for applications to export items listed on the CCL. Once the Category IX items that are the subject to this rulemaking are removed from the USML and added to the CCL, entities currently applying for licenses from the Department of State would find their registration fees reduced if the number of ITAR licenses those entities need declines. If an entity's entire product line is moved to the CCL, then its ITAR registration and registration fee requirement would be eliminated.

De minimis treatment under the EAR would become available for all items that this rule proposes to transfer from the USML to the CCL. Items subject to the ITAR remain subject to the ITAR when they are incorporated abroad into a foreign-made product regardless of the percentage of U.S. content in that foreign made product. Foreign-made products that incorporate items that this rule would move to the CCL would be subject to the EAR only if their total controlled U.S.-origin content exceeded 10 percent. Because including small amounts of U.S.-origin content would not subject foreign-made products to the EAR, foreign manufacturers would have less incentive to avoid such U.S.-origin parts and components, a development that potentially would mean greater sales for U.S. suppliers, including small entities.

BIS is still considering comments made in response to the July 15 rule pertaining to these proposed new *de minimis* levels and, as noted above, will consider *de minimis*-related comments to this proposed rule provided they are in the context of this proposed rule. However, BIS believes that increased burden imposed by those actions will be offset substantially by the reduction in

burden attributable to the moving of items from the USML to CCL and the compliance benefits associated with the consolidation of all WAML items subject to the EAR in one series of ECCNs.

Conclusion

BIS is unable to determine the precise number of small entities that would be affected by this rule. Based on the facts and conclusions set forth above, BIS believes that any burdens imposed by this rule would be offset by a reduction in the number of items that would require a license, increased opportunities for use of license exceptions for exports to certain countries, simpler export license applications, reduced or eliminated registration fees and application of a de minimis threshold for foreign-made items incorporating U.S.-origin parts and components, which would reduce the incentive for foreign buyers to design out or avoid U.S.-origin content. For these reasons, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, no IRFA is required, and none has been prepared.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 742 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are proposed to be amended as follows:

PART 742—[AMENDED]

1. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of November 9, 2011, 76 FR 70319 (November 10, 2011).

2. Section 742.6 is amended by revising paragraph (a)(1) to read as follows:

§ 742.6 Regional stability.

(a) *License requirements.* The following controls are maintained in support of U.S. foreign policy to maintain regional stability:

(1) *RS Column 1 License Requirements in General.* As indicated in the CCL and in RS column 1 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 0A606 (except 0A606.b and .y); 0A614 (except 0A614.y); 0A617 (except 0A617.y); 0B606 (except 0B606.y); 0B614 (except 0B614.y); 0B617 (except 0B617.y); 0C606 (except 0C606.y); 0C617; 0D606 (except 0D606.y); 0D614 (except 0D614.y); 0D617 (except 0D617.y); 0E606 (except 0E606.y); 0E614 (except 0E614.y); 0E617 (except 0E617.y); 1A607 (except 1A607.y); 1B607; (except 1B607.y); 1B608 (except 1B608.y); 1C607; 1C608; 1D607 (except 1D607.y); 1D608(except 1D608.y); 1E607 (except 1E607.y); 1E608 (except 1E608.y); 3A982; 3D982; 3E982; 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3, and b.4.a; 6A008.j.1; 6A998.b; 6D001 (only ''software'' for the ''development'' or ''production'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only ''software'' for the ''use'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D003.c, 6D991 (only ''software'' for the ''development,'' ''production,'' or ''use'' of equipment controlled by 6A002.e or 6A998.b); 6E001 (only technology'' for ''development'' of items in 6A002.a.1, a.2, a.3 (except 6A002.a.3.d.2.a and 6A002.a.3.e for lead selenide focal plane arrays), and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only ''technology'' for ''production'' of items in 6A002.a.1, a.2, a.3, .c, or .e, 6A003.b.3 or b.4, or 6A008.j.1); 6E991 (only ''technology'' for the ''development,'' ''production,'' or ''use'' of equipment controlled by 6A998.b); 6D994; 7A994 (only QRS11–00100–100/101 and QRS11–0050–443/569 Micromachined Angular Rate Sensors); 7D001 (only ''software'' for ''development'' or ''production'' of items in 7A001, 7A002, or 7A003); 7E001 (only ''technology'' for the ''development'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only ''technology'' for the ''production'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only ''technology'' for the ''use'' of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft); 8A609 (except 8A609.y); 8A620 (except 8A620.y); 8B609 (except 8B609.y); 8B620 (except 8B620.y); 8C609 (except 8C609.y); 8D609 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 8D620 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 8A620.y or 8B620.y); 8E609 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 8E620 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishment of commodities controlled by 8A620.y or 8B620.y); 9A610 (except 9A610.y); 9A619 (except 9A619.y); 9B610 (except 9B610.y); 9B619 (except 9B619.y); 9C610 (except 9C610.y); 9C619 (except 9C619.y); 9D610 (except software for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 9A610.y, 9B610.y, or 9C610.y); 9D619 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 9A619.y, 9B619.y, or 9C619.y); 9E610 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by ECCN 9A610.y, 9B610.y, or 9C610.y); and 9E619 (except ''technology'' for the ''development,'' ''production'' operation, installation, maintenance, repair, or overhaul of commodities controlled by ECCN 9A619.y, 9B619.y, or 9C619.y).

* * * * *

PART 774—[AMENDED]

3. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

4. In Supplement No. 1 to Part 774, the Commerce Control List, add, between the entries for Export Control Classification Numbers 0A018 and 0A918, a new entry for Export Control Classification Number 0A614 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A614 Military Training ''Equipment,'' as follows (see List of items controlled):

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry except 0A614.y.	NS Column 1
RS applies to entire entry except 0A614.y.	RS Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A
STA: Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0A614 without the need for a determination described in § 740.20(g). Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0A614.

List of Items Controlled

Unit: ''End items'' in number; ''parts,'' ''components,'' and ''accessories and attachments'' in $ value
Related Controls: (1) Defense articles that are enumerated in USML Category IX and ''technical data'' (including ''software'') directly related thereto are subject to the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than 10% U.S.-origin ''600 series'' items. (3) ''Parts,'' ''components,'' and ''accessories and attachments'' that are common to a simulator controlled by ECCN 0A614.a and to a simulated system or an end item that is controlled on the USML or elsewhere on the CCL are controlled under the same USML Category or ECCN as the ''parts,'' ''components,'' and ''accessories and attachments'' of the simulated system or end item.
Related Definitions: N/A
Items:

a. ''Equipment'' ''specially designed'' for military training that is not enumerated in USML Category IX.

Note: This entry includes operational flight trainers, radar target trainers, flight simulators for aircraft classified under ECCN 9A610.a, human-rated centrifuges, radar trainers for radars classified under ECCN 3A611, instrument flight trainers for military aircraft, navigation trainers for military items, target equipment, armament trainers, military pilotless aircraft trainers, mobile training units and training ''equipment'' for ground military operations.

Note: This entry does not apply to ''equipment'' ''specially designed'' for training in the use of hunting or sporting weapons.

b. through w. [Reserved]

x. ''Parts,'' ''components,'' and ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by this entry or an article enumerated in USML Category IX, and not specified elsewhere in the CCL or the USML.

Note: Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by material composition, geometry, or function as commodities controlled by ECCN 0A614.x are controlled by ECCN 0A614.x.

y. Specific ''parts,'' ''components,'' ''accessories and attachments'' ''specially designed'' for a commodity subject to control in this ECCN and not elsewhere specified in the CCL, as follows:

y.1 to y.98 [Reserved]

y.99. Commodities not identified on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0A614.

5. In Supplement No. 1 to Part 774, the Commerce Control List, add, between the entries for Export Control Classification Numbers 0B006 and 0B968, a new entry for Export Control Classification Number 0B614 to read as follows:

0B614 Test, inspection, and production ''equipment'' for military training ''equipment'' and ''specially designed'' ''parts,'' ''components,'' and ''accessories and attachments'' therefor, as follows (see list of items controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry except 0B614.y.	NS Column 1
RS applies to entire entry except 0B614.y.	RS Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A
STA: Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0B614 without the need for a determination described in § 740.20(g). Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0B614.

List of Items Controlled

Unit: N/A
Related Controls:
Related Definitions: N/A
Items:

a. Test, inspection, and other production ''equipment'' ''specially designed'' for the ''production'' of commodities controlled by ECCN 0A614 or articles enumerated in USML Category IX.

b. through .w [Reserved]

x. ''Parts,'' ''components,'' and ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by ECCN 0B614.

Note 1: Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by material composition, geometry, or function as commodities controlled by ECCN 0B614.x are controlled by ECCN 0B614.x.

y. Specific ''parts,'' ''components,'' and ''accessories and attachments'' ''specially designed'' for a commodity subject to control in this ECCN and not elsewhere specified in the CCL, as follows:

y.1 to y.98 [Reserved]

y.99. Commodities not identified elsewhere on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in this entry.

6. In Supplement No. 1 to Part 774, the Commerce Control List, add, between the entries for Export Control Classification Number 0C201 and before the header that reads ''D. Software'' a new entry for Export Control Classification Number 0D614 to read as follows:

0D614 ''Software'' related to military training ''equipment,'' as follows (See list of items controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry except 0D614.y.	NS Column 1
RS applies to entire entry except 0D614.y.	RS Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2))of the EAR may not be used for any ''software'' in 0D614.

List of Items Controlled

Unit: $ value
Related Controls: ''Software'' directly related to articles enumerated in USML Category IX is subject to the control of USML paragraph IX(e). See ECCN 0A919 for foreign made ''military commodities'' that incorporate more than 10% U.S.-origin ''600 series'' items.
Related Definitions: N/A
Items:

a. ''Software'' (other than ''software'' controlled in paragraph .y of this entry) ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCNs 0A614 (except 0A614.y) or 0B614 (except 0B614.y).

b. to x. [RESERVED]

y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities controlled by ECCNs 0A614 or 0B614, as follows:

y.1. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities controlled by ECCNs 0A614.y or 0B614.y.

y.2 through y.98 [RESERVED]

y.99. ''Software'' that would otherwise be controlled elsewhere in this entry but that (i) has been determined to be subject to the EAR in a commodity jurisdiction determination issued by the U.S. Department of State and (ii) is not otherwise identified elsewhere on the CCL.

7. In Supplement No. 1 to Part 774, the Commerce Control List, add, between the entries for Export Control Classification Numbers 0E018 and 0E918, a new entry for Export Control Classification Number 0E614 to read as follows:

0E614 ''Technology,'' as follows (See list of items controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry except 0E614.y.	NS Column 1
RS applies to entire entry except 0E614.y.	RS Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in 0E614.

List of Items Controlled

Unit: $ value
Related Controls: ''Technical data'' directly related to articles enumerated in USML Category IX is subject to the control of USML paragraph IX(e).
Related Definitions: N/A
Items:

a. ''Technology'' (other than ''technology'' controlled by paragraph .y of this entry) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair overhaul, or refurbishing of commodities or ''software'' controlled by ECCNs 0A614 (except 0A614.y), 0B614 (except 0B614.y), or 0D614 (except 0D614.y).

b. through x. [RESERVED]

y. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by ECCNs 0A614.y or 0B614.y, or ''software'' controlled by ECCN 0D614.y, as follows:

y.1. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair or overhaul of commodities controlled by ECCNs 0A614.y or 0B614.y or ''software'' controlled by ECCN 0D614.y.

y.2. through y.98 [RESERVED]

y.99. ''Technology'' that would otherwise be controlled elsewhere in this entry but that (i) has been determined to be subject to the EAR in a commodity jurisdiction determination issued by the U.S. Department of State and (ii) is not otherwise identified elsewhere on the CCL.

Dated: June 6, 2012.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2012–14444 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2012–F–0480]

Gruma Corporation, Spina Bifida Association, March of Dimes Foundation, American Academy of Pediatrics, Royal DSM N.V., and National Council of La Raza; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Gruma Corporation, Spina Bifida Association, March of Dimes Foundation, American Academy of Pediatrics, Royal DSM N.V., and National Council of La Raza have jointly filed a petition proposing that the food additive regulations be amended to provide for the safe use of folic acid in corn masa flour.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1071.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2A4796) has been jointly filed by Gruma Corporation, Spina Bifida Association, March of Dimes Foundation, American Academy of Pediatrics, Royal DSM N.V., and National Council of La Raza, c/o Alston & Bird, LLP, 950 F Street NW., Washington, DC 20004–1404. The petition proposes to amend the food additive regulations in § 172.345 Folic acid (folacin) (21 CFR 172.345) to provide for the safe use of folic acid in corn masa flour.

The Agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 7, 2012.

Dennis M. Keefe,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2012–14263 Filed 6–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF STATE

22 CFR Part 121

RIN 1400–AD15

[Public Notice 7920]

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category IX

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category IX (military training equipment) of the U.S. Munitions List (USML) to describe more precisely the materials warranting control on the USML. The revisions to this rule are part of the Department of State's retrospective plan under E.O. 13563 completed on August 17, 2011.

The Department of State's full plan can be accessed at *http://www.state.gov/documents/organization/181028.pdf.*

DATES: The Department of State will accept comments on this proposed rule until July 30, 2012.

ADDRESSES: Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- *Email: DDTCResponseTeam@state.gov* with the subject line, ''ITAR Amendment—Category IX.''
- *Internet:* At *www.regulations.gov,* search for this notice by using this rule's RIN (1400–AD15).

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Ms. Candace M. J. Goforth, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2792; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, USML Category IX.

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, *i.e.,* ''defense articles,'' are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to Part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

Export Control Reform Update

The Departments of State and Commerce described in their respective Advanced Notices of Proposed Rulemaking (ANPRM) in December 2010 the Administration's plan to make the USML and the CCL positive, tiered, and aligned so that eventually they can be combined into a single control list (see ''Commerce Control List: Revising Descriptions of Items and Foreign Availability,'' 75 FR 76664 (December 9, 2010) and ''Revisions to the United States Munitions List,'' 75 FR 76935 (December 10, 2010)). The notices also called for the establishment of a ''bright line'' between the USML and the CCL to reduce government and industry uncertainty regarding export jurisdiction by clarifying whether particular items are subject to the jurisdiction of the ITAR or the EAR. While these remain the Administration's ultimate Export Control Reform objectives, their concurrent implementation would be problematic in the near term. In order to more quickly reach the national security objectives of greater interoperability with U.S. allies, enhancing the defense industrial base, and permitting the U.S. Government to focus its resources on controlling and monitoring the export and reexport of more significant items to destinations, end-uses, and end-users of greater concern than NATO allies and other multi-regime partners, the Administration has decided, as an interim step, to propose and implement revisions to both the USML and the CCL that are more positive, but not yet tiered.

Specifically, based in part on a review of the comments received in response to the December 2010 notices, the Administration has determined that fundamentally altering the structure of the USML by tiering and aligning it on a category-by-category basis would significantly disrupt the export control compliance systems and procedures of exporters and reexporters. For example, until the entire USML was revised and became final, some USML categories would follow the legacy numbering and control structures while the newly revised categories would follow a completely different numbering structure. In order to allow for the national security benefits to flow from re-aligning the jurisdictional status of defense articles that no longer warrant control on the USML on a category-by-category basis while minimizing the impact on exporters' internal control and jurisdictional and classification marking systems, the Administration plans to proceed with building positive lists now and afterward return to structural changes.

Revision of Category IX

This proposed rule would revise USML Category IX, covering military training equipment, to further the national security objectives set forth above and to more accurately describe the articles within the category in order to establish a ''bright line'' between the USML and the CCL for the control of these articles.

The title of the category is changed to indicate that it covers training equipment only. Training on a defense article would be a defense service covered under the category in which the defense article is enumerated.

Paragraph (a) is to list all the types of training equipment covered in the category.

Paragraph (b) is also revised to more specifically describe the items (simulators) controlled therein. Radar target generators are to be controlled in Category XI(a). Infrared scene generators are to be controlled in Category XII(c).

Tooling and production equipment, currently controlled in paragraph (c), are to be covered on the CCL in proposed ECCN 0B614.

The most significant aspect of this more positive, but not yet tiered, proposed USML category is that it does not contain controls on all generic parts, components, accessories, and attachments (currently captured in paragraph (d)) that are in any way specifically designed or modified for a defense article, regardless of their significance to maintaining a military advantage for the United States. These items are to be subject to the new 600 series controls in Category 0 of the CCL, to be published separately by the Department of Commerce. Parts, components, accessories, or attachments of a simulator that are common to the simulated system or end-item are to be controlled under the same USML Category or CCL ECCN as the parts, components, accessories, and attachments of the simulated system or end-item.

Definition for Specially Designed

Although one of the goals of the export control reform initiative is to describe USML controls without using design intent criteria, a few of the controls in the proposed revision nonetheless use the term ''specially designed.'' It is, therefore, necessary for the Department to define the term. Two

proposed definitions have been published to date.

The Department first provided a draft definition for ''specially designed'' in the December 2010 ANPRM (75 FR 76935) and noted the term would be used minimally in the USML, and then only to remain consistent with the Wassenaar Arrangement or other multilateral regime obligation or when no other reasonable option exists to describe the control without using the term. The draft definition provided at that time is as follows: ''For the purposes of this Subchapter, the term 'specially designed' means that the end-item, equipment, accessory, attachment, system, component, or part (see ITAR § 121.8) has properties that (i) distinguish it for certain predetermined purposes, (ii) are directly related to the functioning of a defense article, and (iii) are used exclusively or predominantly in or with a defense article identified on the USML.''

The Department of Commerce subsequently published on July 15, 2011, for public comment, the Administration's proposed definition of ''specially designed'' that would be common to the CCL and the USML. The public provided more than 40 comments on that proposed definition on or before the September 13 deadline for comments. The Departments of State, Commerce, and Defense are now reviewing those comments and related issues, and the Departments of State and Commerce plan to publish for public comment another proposed rule on a definition of ''specially designed'' that would be common to the USML and the CCL. In the interim, and for the purpose of evaluation of this proposed rule, reviewers should use the definition provided in the December ANPRM.

Request for Comments

As the U.S. Government works through the proposed revisions to the USML, some solutions have been adopted that were determined to be the best of available options. With the thought that multiple perspectives would be beneficial to the USML revision process, the Department welcomes the assistance of users of the lists and requests input on the following:

(1) A key goal of this rulemaking is to ensure the USML and the CCL together control all the items that meet Wassenaar Arrangement commitments embodied in Munitions List Category 14 (WA–ML14). To that end, the public is asked to identify any potential lack of coverage brought about by the proposed rules for Category IX contained in this notice and the new Category 0 ECCNs published separately by the Department of Commerce when reviewed together.

(2) The key goal of this rulemaking is to establish a ''bright line'' between the USML and the CCL for the control of these articles. The public is asked to provide specific examples of articles whose jurisdiction would be in doubt based on this revision.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department is publishing this rule with a 45-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function. As noted above, and also without prejudice to the Department position that this rulemaking is not subject to the APA, the Department previously published a related Advance Notice of Proposed Rulemaking (RIN 1400–AC78), and accepted comments for 60 days.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This proposed amendment does not involve a mandate that will 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 year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This proposed amendment 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, it is determined that this proposed amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this proposed amendment.

Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State has reviewed the proposed amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect the

following approved collections: (1) Statement of Registration, DS–2032, OMB No. 1405–0002; (2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003; (3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013; (4) Nontransfer and Use Certificate, DSP–83, OMB No. 1405–0021; (5) Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data, DSP–85, OMB No. 1405–0022; (6) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023; (7) Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services, OMB No. 1405–0025; (8) Authority to Export Defense Articles and Services Sold Under the Foreign Military Sales (FMS) Program, DSP–94, OMB No. 1405–0051; (9) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092; (10) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093; (11) Maintenance of Records by Registrants, OMB No. 1405–0111; (12) Annual Brokering Report, DS–4142, OMB No. 1405–0141; (13) Brokering Prior Approval (License), DS–4143, OMB No. 1405–0142; (14) Projected Sale of Major Weapons in Support of Section 25(a)(1) of the Arms Export Control Act, DS–4048, OMB No. 1405–0156; (15) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157; (16) Request for Commodity Jurisdiction Determination, DS–4076, OMB No. 1405–0163; (17) Request to Change End-User, End-Use, and/or Destination of Hardware, DS–6004, OMB No. 1405–0173; (18) Request for Advisory Opinion, DS–6001, OMB No. 1405–0174; (19) Voluntary Disclosure, OMB No. 1405–0179; and (20) Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18, OMB No. 1405–0195. The Department of State believes there will be minimal changes to these collections. The Department of State believes the combined effect of all rules to be published moving commodities from the USML to the EAR as part of the Administration's Export Control Reform would decrease the number of license applications by approximately 30,000 annually. The Department of State is looking for comments on the potential reduction in burden.

List of Subjects in Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121 is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920.

2. Section 121.1 is amended by revising U.S. Munitions List Category IX to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category IX—Military Training Equipment

(a) Training equipment, as follows:

(1) Ground, surface, submersible, space, or towed airborne targets that:

(i) Have an infrared, radar, acoustic, magnetic, or thermal signature that mimic a specific defense article, other item, or person; or

(ii) Are instrumented to provide hit/miss performance information;

Note to paragraph (a)(1): Target drones are controlled in Category VIII(a).

(2) Devices that are mockups of articles enumerated in this subchapter used for maintenance training or disposal training for ordnance enumerated in this subchapter;

(3) Air combat maneuvering instrumentation and ground stations therefor;

(4) Physiological flight trainers for fighter aircraft or attack helicopters;

(5) Radar trainers ''specially designed'' for training on radars controlled by Category XI;

(6) Training devices ''specially designed'' to be attached to a crew station, mission system, or weapon of an article controlled in this subchapter;

Note to paragraph (a)(6): This paragraph includes stimulators that are built-in or add-on devices that cause the actual equipment to act as a trainer.

(7) Anti-submarine warfare trainers;

(8) Missile launch trainers;

(9) Any training device that:

(i) Is classified;

(ii) Contains classified software;

(iii) Is manufactured using classified production data; or

(iv) Is being developed using classified information.

''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government.

Note to paragraph (a): Training equipment does not include combat games without item signatures or tactics, techniques, and procedures covered by this subchapter.

(b) Simulators, as follows:

(1) System specific simulators that replicate the operation of an individual crew station, a mission system, or a weapon of an end-item that is controlled in this subchapter;

(2) [Reserved]

(3) [Reserved]

(4) Software and associated databases not elsewhere enumerated in this subchapter that can be used to simulate the following:

(i) Trainers specified by this category;

(ii) Battle management;

(iii) Military test scenarios/models; or

(iv) Effects of weapons enumerated in this subchapter;

(5) Simulators that:

(i) Are classified;

(ii) Contain classified software;

(iii) Are manufactured using classified production data; or

(iv) Are being developed using classified information.

''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government.

(c) [Reserved]

(d) [Reserved]

(e) Technical data (as defined in § 120.10 of this subchapter) and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (b) of this category.

(f) [Reserved]

Note: Parts, components, accessories, or attachments of a simulator that are common to the simulated system or end-item are controlled under the same USML Category or CCL ECCN as the parts, components, accessories, and attachments of the simulated system or end-item.

* * * * *

Dated. June 7, 2012.

Rose E. Gottemoeller,

Acting Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2012–14443 Filed 6–12–12; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2012–0482]

RIN 1625–AA08

Special Local Regulations for Marine Events, Wrightsville Channel; Wrightsville Beach, NC

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes a Special Local Regulation for the ''Swim Harbor Island'' swim event, to be held on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. This Special Local Regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina, during the swim event.

DATES: Comments and related material must be received by the Coast Guard on or before July 13, 2012.

ADDRESSES: You may submit comments identified by docket number 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email BOSN3 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252–247–4525, email *Joseph.M.Edge@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:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. 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.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, 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 at *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, 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 telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2012–0482) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. 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,* type the docket number (USCG–2012–0482) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. 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).

4. Public Meeting

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

B. Basis and Purpose

On September 29, 2012 from 7 a.m. to 11 a.m., Without Limits Coaching will sponsor ''Swim Harbor Island'' on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. The swim event will consist of up to 200 swimmers swimming a 3.5 mile course around Harbor Island in Wrightsville Beach, North Carolina. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

C. Discussion of Proposed Rule

The Coast Guard is proposing establishing a safety zone on the navigable waters of the Atlantic Intracoastal Waterway 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13′06″

North, longitude 077°48′44″ West, at Wrightsville Beach, North Carolina. Participants will enter the Atlantic Intracoastal Waterway at the Dockside Marina on the west bank of the Atlantic Intracoastal Waterway south of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina, and swim north and clockwise around Harbor Island returning to the Dockside Marina. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

In an effort to enhance safety of event participants the channel in the vicinity of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina will remain closed during the event on September 29, 2012 from 7 a.m. to 11 a.m. The Coast Guard will temporarily restrict access to this section of Atlantic Intracoastal Waterway during the event. In the interest of participant safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the area, the effect of this rule will not be significant because the regulated area will be in effect for a limited time, from 7 a.m. to 11 a.m., on September 29, 2012. The Coast Guard will provide advance notification via maritime advisories so mariners can adjust their plans accordingly. The regulated area will apply only to the section of Atlantic Intracoastal Waterway in the immediate vicinity of U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of recreational vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 7 a.m. to 11 a.m. on September 29, 2012.

This proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule will only be in effect for four hours from 7 a.m. to 11 a.m. The regulated area applies only to the section of Atlantic Intracoastal Waterway in the vicinity of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Vessel traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course. The Patrol Commander will allow non-participating vessels to transit the event area once all swimmers are safely clear of navigation channels and vessel traffic areas. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. This special local regulation is necessary to provide for the safety of the general public and event participants from potential hazards associated with movement of vessels near the event area. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35T05–0482 to read as follows:

§ 100.35–T05–0482 SPECIAL LOCAL REGULATIONS FOR MARINE EVENTS, WRIGHTSVILLE CHANNEL; WRIGHTSVILLE BEACH, NC

(a) *Regulated area.* The following location is a regulated area: All waters of the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13′06″ North, longitude 077°48′44″ West, at Wrightsville Beach, North Carolina. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all vessels participating in the ''The Crossing'' swim event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(4) *Spectator* means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) *Special local regulations:* (1) The Coast Guard Patrol Commander will control the movement of all vessels in the vicinity of the regulated area. When hailed or signaled by an official patrol vessel, a vessel approaching the regulated area shall immediately comply with the directions given. Failure to do so may result in termination of voyage and citation for failure to comply.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any support vessel participating in the event, at any time it is deemed necessary for the protection of life or property. The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(3) Vessel traffic, not involved with the event, may be allowed to transit the regulated area with the permission of the Patrol Commander. Vessels that desire passage through the regulated area shall contact the Coast Guard Patrol Commander on VHF–FM marine band radio for direction. Only participants and official patrol vessels are allowed to enter the regulated area.

(4) All Coast Guard vessels enforcing the regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22 (157.1 MHz). The Coast Guard will issue marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement period:* This section will be enforced from 7 a.m. to 11 a.m. on September 29, 2012.

Dated: May 30, 2012.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2012–14378 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 220

RIN 0596–AD01

National Environmental Policy Act: Categorical Exclusions for Soil and Water Restoration Activities

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rule; request for public comment.

SUMMARY: The United States Department of Agriculture, Forest Service, is proposing to supplement its National Environmental Policy Act (NEPA) regulations (36 CFR Part 220) with three new categorical exclusions for activities that restore lands negatively impacted by water control structures, natural and human caused events, and roads and trails. These categorical exclusions will allow the Forest Service to more efficiently analyze and document the potential environmental effects of soil and water restoration projects that are intended to restore the flow of waters into natural channels and floodplains by removing water control structures, such as dikes, ditches, culverts and pipes; restore lands and habitat to pre-disturbance conditions, to the extent practicable, by removing debris, sediment, and hazardous conditions following natural or human-caused events; and restore lands occupied by roads and trails to natural conditions.

The proposed road and trail restoration category would be used for restoring lands impacted by non-system roads and trails that are no longer needed and no longer maintained. This category would not be used to make access decisions about which roads and trails are to be designated for public use.

DATES: Comments must be received in writing on or before August 13, 2012.

ADDRESSES: Submit comments online at *http://www.regulations.gov.* Submit written comments by addressing them to Restoration CE Comments, P.O. Box 4208, Logan, UT 84323, or by facsimile to (801) 397–1605. Please identify your written comments by including ''Categorical Exclusions'' on the cover sheet or the first page. Electronic comments are preferred. For comments sent via U.S. Postal Service, please do not submit duplicate electronic or facsimile comments. Please confine comments to the proposed rule on Categorical Exclusion for Restoration Activities.

All comments, including names and addresses, when provided, will be placed in the record and will be available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Peter Gaulke, Ecosystem Management Coordination Staff, (202) 205–1521. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339 between 8:00 a.m. and 8:00 p.m. eastern standard time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background and Need for the Proposed Rule

In 2009, Secretary of Agriculture Tom Vilsack called for restoring forestlands to protect water resources, the climate, and terrestrial and aquatic ecosystems. The Forest Service spends significant resources on NEPA analyses and documentation for a variety of land management projects. The Agency believes that it is possible to improve the efficiency of the NEPA process to speed the pace of forest and watershed restoration, while not sacrificing sound environmental analysis.

For decades, the Forest Service has implemented terrestrial and aquatic restoration projects. Some of these projects encompassed actions that promoted restoration activities related to floodplains, wetlands and watersheds, or past natural or human-caused damage. The Forest Service has found that under normal circumstances the environmental effects of some restoration activities have not been individually or cumulatively significant. The Forest Service's experience predicting and evaluating the environmental effects of the category of activities outlined in this proposed rule has led the Agency to propose supplementing its NEPA regulations by adding three new categorical exclusions for activities that achieve soil and water restoration objectives.

The Forest Service's proposed categorically excluded actions promote hydrologic, aquatic, and landscape restoration activities. All three categorical exclusions involve activities that are intended to maintain or restore ecological functions and better align the Agency's regulations, specifically its categorical exclusions, with the Agency's current activities and experiences related to restoration.

The restoration of lands occupied by unmaintained non-system roads and trails (National Forest System Roads and Trails are defined at 36 CFR 212.1) is important to promote hydrologic, aquatic, and watershed restoration. Activities that restore lands occupied by a road or trail may include reestablishing former drainage patterns, stabilizing slopes, restoring vegetation, blocking the entrance to the road, installing waterbars, removing culverts, removing unstable fills, pulling back road shoulders, and completely eliminating the road bed by restoring natural contours and slopes. The Forest Service experience is that the majority of issues associated with road and trail decommissioning arise from the initial decision whether to close a road or trail to public use rather than from implementing individual restoration projects.

The Forest Service believes it is appropriate to establish soil and water restoration categorical exclusions based on NEPA implementing regulations at 40 CFR § 1500.4(p) and 1500.5(k), which identify a categorical exclusion as a means to reduce paperwork and delays in project implementation, and the Agency's abundance of information showing that the majority of these identified restoration actions have no significant impacts.

Pursuant to CEQ's implementing regulations at 40 CFR § 1507.3 and the November 23, 2010, CEQ guidance memorandum on ''Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act,'' the Forest Service gathered information supporting establishment of these three categorical exclusions using the following four methods:

(1) The Forest Service reviewed EAs that implemented actions that were entirely or partially covered under one of the proposed categorical exclusions. This review showed that these projects did not individually or cumulatively result in a significant effect on the human environment.

(2) The Forest Service consulted with professional staff and experts who have experience leading interdisciplinary teams and conducting environmental analysis of project proposals, implementing restoration activities, guiding the development and execution of restoration programs, and studying the techniques, effects, and outcomes associated with soil and water restoration activities. The experience of these professional staff included persons from every Forest Service and nearly every geographic region across the United States, including Alaska.

(3) The Forest Service also studied peer-reviewed scientific analyses, research papers, and monitoring reports about activities identified under these categorical exclusions.

(4) Finally, the Forest Service reviewed categorical exclusions adopted by eight other federal agencies that cover activities that are comparable in size and scope and that are implemented under similar natural resource conditions with similar environmental impacts to those covered under the categories in this proposed rule.

Based on this review, the Forest Service finds that the proposed categorical exclusions would not individually or cumulatively have significant effects on the human environment. The Agency's finding is

predicated on data from implementing comparable past actions; the expert judgment of the responsible officials who made the findings for the projects reviewed for this supporting statement; information from other professional staff and experts, and scientific analyses; a review and comparison of similar categorical exclusions implemented by other federal agencies; and the Forest Service's experience implementing soil and water restoration activities and subsequent monitoring of potential associated impacts. Additional information is available at *http://www.fs.fed.us/emc/nepa/restorationCE.*

Implementing the Proposed Categorical Exclusion

Actions relying on one of these categorical exclusions remain subject to agency requirements to conduct scoping and require a determination that there are not extraordinary circumstances that would otherwise require documentation in an EA or EIS. These proposed categorical exclusions would require a project or case file and decision memo, including, in part, a rationale for using the categorical exclusion and a finding that extraordinary circumstances do not require documentation in an EA or EIS.

Regulatory Certification

Environmental Impact

The intent of the proposed rule is to increase administrative efficiency in connection with conducting important restoration activities on National Forest System lands while assuring that no significant environmental effects occur. The proposed amendment of Forest Service NEPA Regulations (36 CFR 220.6) concerns NEPA documentation for certain types of soil and water restoration activities. The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: Those that require preparation of an EIS; those that require preparation of an EA; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), aff'd, 230 F. 3d 947, 954–55 (7th Cir. 2000).

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. The Office of Management and Budget has determined that this is not a significant rule. The proposed rule would not have an annual effect of $100 million or more on the economy, nor would it adversely affect productivity, competition, jobs, the environment, public health or safety, or state or local government. This proposed rule would not interfere with an action taken or planned by another agency, nor would it raise new legal or policy issues. Finally, this proposed rule would not alter the budgetary impacts of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients of such programs.

Regulatory Flexibility Act

This proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The Agency has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined by the Act because the proposed rule would not impose recordkeeping requirements; it does not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

Federalism

The Agency has considered this proposed rule under the requirements of Executive Order 13132, ''Federalism.'' The Agency has concluded that the proposed rule conforms with the federalism principles set out in this Executive Order; would not impose any compliance costs on the states; and would not have substantial direct effects on the states or the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Consultation and Coordination With Indian Tribal Governments

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' the Agency has assessed the impact of this proposed rule on Indian Tribal governments and has determined that it would not significantly or uniquely affect communities of Indian Tribal governments. The proposed rule deals with requirements for NEPA analysis and has no direct effect on occupancy and use of National Forest System lands. The Agency has also determined that this proposed rule would not impose substantial direct compliance costs on Indian Tribal governments or preempt Tribal law. Therefore, it has been determined that this proposed rule would not have Tribal implications requiring advance consultation with Indian Tribes.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.'' The Agency has determined that the proposed rule would not pose the risk of a taking of protected private property.

Civil Justice Reform

The Agency has reviewed this proposed rule under Executive Order 12988 of February 7, 1996, ''Civil Justice Reform.'' After adoption of this proposed rule, (1) all state and local laws and regulations that conflict with this rule or that would impede full implementation of this rule would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) the proposed rule would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of this proposed rule on state, local, and Tribal governments and the private sector. This proposed rule would not compel the expenditure of $100 million or more by any state, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Energy Effects

The Agency has reviewed this proposed rule under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Agency has determined that this proposed rule does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use, and therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 220

Administrative practices and procedures, Environmental impact statements, Environmental protection, National forests, Science and technology.

For the reasons set out in the preamble, the Forest Service proposes to amend part 220 of title 36 of the Code of Federal Regulations as follows:

PART 220—NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

1. The authority citation for 36 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.:* E.O. 11514; 40 CFR parts 1500–1508; 7 CFR part 1b.

2. In § 220.6, add paragraphs (e)(18), (19), and (20) categorical exclusion categories read as follows:

§ 220.6 Categorical exclusions.

* * * * *

(e) * * *

(18) Restoring wetlands, streams, and riparian areas by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable. Examples include but are not limited to:

(i) Removing, replacing, or repairing existing water control structures that are no longer functioning properly; only minimal dredging, excavation, or placement of fill is required and do not involve releasing hazardous substances;

(ii) Installing a newly designed culvert that replaces an existing inadequate culvert to improve aquatic organism passage or prevent resource or property damage where the road or trail maintenance level does not change; and

(iii) Removing a culvert and installing a bridge to improve aquatic and/or terrestrial organism passage or prevent resource or property damage where the road or trail maintenance level does not change.

(19) Removing debris and sediment following natural or human-caused disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing deposited debris and sediment resulting from natural or human-caused disturbance events from impacted sites using manual or mechanized equipment where minimal excavation is required;

(ii) Clean-up and removal of infrastructure debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a flood event from a stream reach and/or adjacent wetland area;

(iii) Removal of downed or damaged trees that limit or reduce public access, result in potential risks to public safety, or where removal is needed to restore wildlife, or protect infrastructure; and

(iv) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a natural or human-caused event, including the utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(20) Activities that restore, rehabilitate, or stabilize lands occupied by non-National Forest System roads and trails to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning of anon-system road to a more natural state by restoring natural contours and removing construction fills, revegetating the roadbed and removing ditches and culverts;

(ii) Restoring a non-system trail by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars;

(iii) Completely eliminating the roadbed of unauthorized roads by loosening compacted soils, removing culverts, reestablishing natural drainage patterns, restoring natural contours, and restoring vegetation; and

(iv) Installing boulders, logs, and berms on a non-system trail segment to promote naturally regenerated grass, shrub, and tree growth.

Dated: May 11, 2012.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2012–14284 Filed 6–12–12; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–NM–0008; FRL–9684–4]

Approval and Promulgation of Implementation Plans; New Mexico; Minor New Source Review (NSR) Preconstruction Permitting Rule for Cotton Gins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the applicable minor New Source Review (NSR) State Implementation Plan (SIP) for New Mexico submitted by the state of New Mexico on April 25, 2005, which incorporates a new regulation related to minor NSR preconstruction permitting for particulate matter emissions from cotton ginning facilities. The submitted Cotton Gin regulation provides an alternative preconstruction process for cotton ginning facilities that will emit no more than 50 tons per year of particulate matter. The new regulation prescribes, at a minimum, best technical control equipment standards, opacity limitations, and fugitive dust management plan requirements to minimize particulate matter emissions and establishes a minimum setback distance from the gin to the property

line. EPA has determined that this SIP revision complies with the Clean Air Act and EPA regulations and is consistent with EPA policies. This action is being taken under section 110 of the Act.

DATES: Comments must be received on or before July 13, 2012.

ADDRESSES: Comments may be mailed to Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically of through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–7289; fax number (214) 665–6762; email address *mohr.ashley@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this Federal Register, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 30, 2012.

Samuel Coleman,

Acting Regional Administrator, EPA Region 6.

[FR Doc. 2012–14156 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0546; FRL–9685–8]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the manufacture of polystyrene, polyethylene, and polypropylene products. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 13, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0546, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, (415) 947–4118, *Kay.Rynda@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal
A. What rule did the State submit?
B. Are there other versions of this rule?
C. What is the purpose of the submitted rule revision?
II. EPA's Evaluation and Action
A. How is EPA evaluating the rule?
B. Does the rule meet the evaluation criteria?
C. EPA Recommendations To Further Improve the Rule
D. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4682	Polystyrene, Polyethylene, and Polypropylene Products Manufacturing	12/15/2011	02/23/2012

On March 13, 2012, EPA determined that the submittal for SJVUAPCD Rule 4682 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 4682 into the SIP on June 13, 1995 (60 FR 31086). The SJVUAPCD adopted revisions to the SIP-approved version on September 20, 2007 and CARB submitted them to us on March 7, 2008. On July 15, 2011 (76 FR 41745), we proposed a limited approval and limited disapproval of the 2007 version of SJVUAPCD Rule 4682. However, the 2011 version of the rule superseded the 2007 version, and we do not intend to finalize action on the 2007 version.

C. What is the purpose of the submitted rule revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Rule 4682 was designed to reduce emissions of VOCs from the manufacturing, processing and storage of products composed of polystyrene, polyethylene, and polypropylene. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4682 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

3. ''Averaging Times for Compliance With VOC Emission Limits—SIP Revision Policy,'' memorandum from John R. O'Connor, OAQPS, dated January 20, 1984.

B. Does the rule meet the evaluation criteria?

On July 15, 2011 (76 FR 41745), we proposed a limited approval and limited disapproval of a previous version of SJVUAPCD Rule 4682. We determined that the rule largely fulfills the relevant criteria summarized above. The rule improves the SIP by clarifying language, adding definitions, and adding control requirements. The rule also improves the SIP by adding requirements for compliance plans, record keeping, and testing. The rule is generally clear and contains appropriate monitoring, reporting, and recordkeeping requirements to ensure that emission limits are adequately enforceable. We found our approval of the submittal would comply with CAA section 110(l), because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the National Ambient Air Quality Standards are met, and the submitted SIP revision is at least as stringent as the rule previously approved into the SIP. While we found the rule largely fulfilled relevant Clean Air Act 110 and Part D requirements, we identified one deficiency.

The rule established an emission limit of 2.4 pounds of VOC per 100 pounds of total material processed, as averaged on a monthly basis. EPA generally cannot approve compliance periods exceeding 24 hours unless specific criteria are met, including a clear explanation of why the application of RACT is not economically or technically feasible on a daily basis. The District revised the rule and added supporting documentation to address the deficiency.

The District identified two major processes covered by Rule 4682, extrusion foam and expanded polystyrene molding production, and split the rule requirements by process type. Both processes are still subject to an emission limit of 2.4 pounds of VOC per 100 pounds of total material processed, calculated over a monthly period. Expandable polystyrene molding facilities, however, are now subject to an additional emission limit of 3.4 pounds of VOC per 100 pounds of total material processed, calculated daily. Based on the evaluation of the revision, we propose that Rule 4682 is consistent with RACT and the criteria for approving averaging times exceeding 24 hours. The TSD has detailed information on our evaluation.

On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009 for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA section 182 RACT requirements for polystyrene manufacturing operations. See 77 FR 1417, 1425 (January 10, 2012). Final approval of Rule 4682 would satisfy California's obligation to implement RACT under CAA section 182 for this source category for the 1-hour ozone and 1997 8-hour ozone NAAQS and thereby terminate all CAA sanction and Federal Implementation Plan (FIP) implications of our RACT SIP action as it relates to polystyrene manufacturing.

C. EPA Recommendations to Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

D. Public Comment and Final Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this proposed action merely proposes to approve 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 25, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–14421 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0359; FRL–9685–9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from crude oil production sumps and refinery wastewater separators. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 13, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0359, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov*.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the submitted rules and rule revisions?
II. EPA's Evaluation and Action.
A. How is EPA evaluating the rules?
B. Do the rules meet the evaluation criteria?
C. EPA recommendations to further improve the rules.
D. Public comment and final action.
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the state submit?

Table 1 lists the rules addressed by this proposal with the dates that they were amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD	4402	Crude Oil Production Sumps	12/15/11	02/23/12
SJVUAPCD	4625	Wastewater Separators	12/15/11	02/23/12

On March 13, 2012, EPA determined that the submittal for SJVUAPCD Rule 4402 and SJVUPACD Rule 4625 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

On July 7, 2011 (76 FR 39777), we finalized a limited approval into the SIP of earlier versions of Rule 4402 and 4625 because these rules largely fulfilled relevant CAA requirements. We simultaneously finalized a limited disapproval of these rules, identifying several rule deficiencies. The SJVUAPCD adopted revisions to the SIP-approved versions on December 15, 2011 and CARB submitted them to us on February 23, 2012.

C. What is the purpose of the submitted rules and rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The submitted Rule 4402, Crude Oil Production Sumps, controls VOC emissions from sumps by prohibiting first stage sumps, requiring covers, requiring recordkeeping, and limiting emergency pit use. The submitted Rule 4625, Wastewater Separators, controls VOC emissions from wastewater separators at refineries by requiring inspections, removing exemptions, and requiring recordkeeping. The rules were revised largely to address the deficiencies identified in EPA's July 7, 2011 limited disapproval. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(b)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rules 4402 and 4625 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

3. ''Technical Support Document for Suggested Control Measure for the Control of Organic Compound Emissions from Sumps Used in Oil Production Operations,'' California Air Resources Board, August 11, 1988.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation and explain how the revised submittal adequately addresses all deficiencies identified in our previous limited disapproval by revisions to the rule and/or the District's supporting documentation.

C. EPA recommendations to further improve the rules

We recommend SJVUAPCD develop a more current inventory of all oil production sumps, ponds, and pits in the District for its next ozone plan. This inventory could identify the number of sumps and ponds by size, type (lined, unlined, excavation, above ground, etc.), VOC content and operator production rate. The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP. If we finalize this action as proposed, this action would terminate all sanction and FIP clocks associated with our July 2011 limited disapproval.

On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009 for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA Section 182 RACT requirements for crude oil production sumps and refinery wastewater separators. See 77 FR 1417, 1425 (January 10, 2012). Final approval of Rule 4402 and 4625 would satisfy California's obligation to implement RACT under CAA section 182 for this source category for the 1-hour ozone and 1997 8-hour ozone NAAQS and thereby terminate both the sanctions clocks and the Federal Implementation Plan (FIP) clock associated with these rules.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve 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 (Public Law 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 Clean Air Act; and

• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 25, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–14410 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 725

[EPA–HQ–OPPT–2010–0994; FRL–9350–6]

RIN 2070–AD43

Trichoderma reesei; Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for the genetically modified microorganism identified generically as *Trichoderma reesei* (*T. reesei*). This microorganism was the subject of a Microbial Commercial Activity Notice (MCAN). EPA believes this action is necessary because the use of this genetically modified *T. reesei* under certain conditions may be hazardous to human health and the environment. This proposed rule would also establish a mechanism to allow EPA to evaluate an intended use and its conditions, and to prohibit or limit that activity before it occurs, if EPA determines it may be hazardous.

DATES: Comments must be received on or before July 13, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0994, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2010–0994. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2010–0994. EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import, process, or use products that contain living microorganisms subject to TSCA, especially if you know that your products contain or may contain *T. reesei.* Potentially affected entities may include, but are not limited to:

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the list of chemical substances excluded by TSCA section 3(2)(B) and the applicability provisions in § 725.105(c) for SNUR related obligations. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemical substances subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 725.920), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is proposing this SNUR for the genetically modified microorganism identified generically as *T. reesei* (MCAN J–10–2). This proposed rule would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of the microorganism for any activity designated as a significant new use.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' (see 40 CFR part 725, subparts L and M). EPA must make this determination by rule after considering all relevant factors, including the TSCA section 5(a)(2) factors, listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 725.105(c).

EPA has interpreted the TSCA section 3(2) definition of ''chemical substance'' as authorizing EPA to regulate microorganisms under TSCA. See the **Federal Register** issue of April 11, 1997 (62 FR 17910) (FRL–5577–2).

C. Applicability of General Provisions

General provisions for SNURs for microorganisms appear in 40 CFR part 725, subpart L. These provisions describe persons subject to the proposed rule, recordkeeping requirements, exemptions to reporting requirements, and applicability to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the notice requirements under TSCA section 5(a)(1)(A) and must submit a MCAN, using the procedures set out in 40 CFR part 725, subpart D, and additional ''Significant New Uses of Microorganisms'' procedures at 40 CFR part 725, subpart L.

Under 40 CFR part 725, EPA has adopted a more narrow interpretation of the TSCA section 5(h)(3) exemption for small quantities used in research than it has for other chemical substances under 40 CFR part 721. Under § 725.3, EPA has defined small quantities solely for research and development as ''quantities of a microorganism manufactured, imported, or processed or proposed to be manufactured, imported, or processed solely for research and development that meet the requirements of § 725.234.'' Any other research and development activity of a microorganism subject to a SNUR must comply with the TSCA section 5(a)(1)(A) notification requirements unless that activity has been excluded from coverage under the SNUR. See § 725.3, subparts E and F of 40 CFR part 725, and the April 11, 1997 **Federal Register** document. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the

Federal Register its reasons for not taking action.

III. Significant New Use Determination

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

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

In addition to these factors specifically enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substance that is the subject of this proposed SNUR, EPA considered the available information relating to the four bulleted factors listed in TSCA section 5(a)(2) factors listed in this unit, and other relevant factors. This includes relevant information about the toxicity of the chemical substance and likely human exposures and environmental releases associated with possible uses. See the risk assessment in the docket under docket ID number EPA–HQ–OPPT–2010–0994 for this information and other relevant factors.

IV. Substance Subject to This Proposed Rule

EPA is proposing to establish significant new use and recordkeeping requirements for only the microorganism identified generically as *T. reesei,* genetically modified as described in MCAN J–10–2. This will be codified in 40 CFR part 725, subpart M. Any *T. reesei* microorganism with genetic modifications other than those described in MCAN J–10–2 would not be subject to this SNUR and will require submission and EPA review of a separate MCAN.

MCAN Number J–10–2

Chemical name: Trichoderma reesei (MCAN J–10–2) (generic).

Chemical Abstracts Service (CAS) Registry Number: Not available.

Use: The MCAN states that the generic (non-confidential) use of the microorganism will be to produce enzymes for ethanol production.

Basis for action: When used to produce enzymes that can release sugars from de-lignified plant materials, human and environmental exposures to live *T. reesei* cells are low, due to the containment and inactivation procedures specified in the MCAN. These containment and inactivation procedures are consistent with standard industry practices and those delineated in 40 CFR 725.422(d). These procedures include the use of equipment to minimize aerosol releases from the facility, and the use of inactivation methods that reduce the number of viable cells by at least 6 logs (i.e., 10^6) in the liquid and solid waste streams. More importantly, the manufacturing process described in the MCAN relies on the typical submerged standard industrial fermentation process for enzyme production, wherein the microorganism is grown in liquid broth culture in the absence of solid materials or solid surfaces, the fermentation is terminated prior to the microorganism entering the stationary phase of growth, and the enzyme is separated from the microbial biomass which is inactivated prior to disposal. Therefore, EPA determined that the proposed manufacturing, processing, or use of the microorganism as described in the MCAN is not expected to present an unreasonable risk. However, EPA has determined that use of the microorganism under other conditions may result in adverse human health and environmental effects. Specifically, where growth on solid plant material or insoluble substrate occurs, *T. reesei* has been shown to produce a secondary metabolite known as paracelsin, which is a peptaibol. Peptaibols are small linear peptides of 1,000–2,000 Daltons characterized by a high content of the non-proteinogenic amino acid alpha-amino-isobutyric acid (Aib), with a *N*-terminus that is typically acetylated, and a *C*-terminus that is linked to an amino alcohol, which is usually phenylalaninol, or sometimes valinol, leucinol, isoleucinol, or tryptophanol. Peptaibols are associated with a wide variety of biological activities and have antifungal, antibacterial, sometimes antiviral, antiparasitic, and neurotoxic activity. Paracelsin has been shown to have toxicity toward mammalian cells such as hemolytic activity on human erythrocytes and cytotoxicity to rat adrenal medulla PC12 (pheochromocytoma) cells. Paracelsin has also been shown to exhibit cytotoxicity to Gram-positive bacteria, to human erythrocytes, and to other mammals such as aquatic indicator species. Additional information relating to the assessment of this chemical substance and paracelsin, including a sanitized EPA risk assessment and a list of references used, is available in the docket under docket ID number EPA–HQ–OPPT–2010–0994.

Recommended testing: EPA has determined that the results of the following studies would help characterize any potential human health and environmental effects of the MCAN substance:

1. Investigation of whether paracelsin will be produced, and at what levels if the genetically modified *T. reesei* is grown on various plant biomass materials for different durations under various fermentation conditions in cellulosic biomass facilities.
2. If paracelsin is produced, a study of whether paracelsin would be denatured/inactivated during production and processing.
3. If paracelsin is released from the facility, a study of whether paracelsin would be degraded/inactivated during wastewater treatment.
4. If released to the environment, studies on the persistence, stability, dissemination, accumulation, and the potential resulting biological activity of paracelsin with exposure to aquatic and terrestrial organisms in the environment.
5. Studies to determine the ability of the MCAN microorganism to survive in the environment relative to the survival of the unmodified parent or recipient strain, and to assess its competitiveness with other fungi in the environment. This study may require some supplementation with one or more carbon sources and the use of various soil types.
6. A study to determine survival of the fungus during an anaerobic fermentation for production of ethanol by an ethanologen, and survival of the fungus during ethanol distillation or at the distillation temperature for ethanol.

CFR citation: 40 CFR 725.1077.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the specific *T. reesei,* modified as described in MCAN J–10–2, EPA determined that certain fermentation conditions, other than the typical submerged standard industrial fermentation process for enzyme production described in Unit IV., could result in increased exposures thereby constituting a ''significant new use.'' Specifically, EPA is concerned that where growth on solid plant material or

insoluble substrate occurs, *T. reesei* has been shown to produce a secondary metabolite known as paracelsin, which is associated with a variety of toxic effects to mammalian and bacterial cells. Use of the MCAN microorganism without the specific containment or inactivation controls listed in the MCAN, described in Unit IV., may result in adverse human health and environmental effects. Based on the descriptions of manufacturing, processing, and use in the MCAN J–10–2, the Agency believes that uses of the organism covered by the proposed definition of a significant new use are not currently ongoing.

B. Objectives

EPA is proposing this SNUR for a chemical substance that has undergone review to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

- EPA would receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA would be able to determine whether regulation of prospective manufacturers, importers, or processors of a listed chemical substance is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7, and impose any necessary requirements before the described significant new use of that chemical substance occurs.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available electronically at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

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

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing.

As discussed in the **Federal Register** issue of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the proposed rule became final, and then argue that the use was ongoing before the effective date of the final rule. Thus, any persons who begin commercial manufacture, import, or processing activities with the microorganism that would be regulated through this proposed rule will have to cease any such activity before the effective date of the final rule, if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this proposed SNUR before the effective date. If a person were to meet the conditions of advance compliance under 40 CFR 725.912(a), the person would be considered exempt from the requirements of the SNUR.

VII. Test Data and Other Information

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

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

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

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see 40 CFR 725.25(a)(2)). However, upon review of MCANs and SNUNs, the Agency has the authority to require appropriate testing. In this case, EPA recommends persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

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

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

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

VIII. SNUN Submissions

Persons subject to this SNUR must comply with the notice requirements under TSCA section 5(a)(1)(A) and must submit a MCAN, using the procedures set out in 40 CFR part 725, subpart D, and additional ''Significant New Uses of Microorganisms'' procedures at 40 CFR part 725, subpart L. SNUNs must be submitted to EPA on EPA Form No. 6300–07, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 725.25 and 40 CFR 725.27. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance subject to this proposed rule. EPA's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2010–0994.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This proposed rule would establish a SNUR for a chemical substance that was the subject of a MCAN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB

control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA would amend the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this proposed rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320.

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

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

C. Regulatory Flexibility Act

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR would not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this proposed rule.

This proposed rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reason to believe that any State, local, or Tribal government would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

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

G. Executive Order 13045

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

H. Executive Order 13211

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

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

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

List of Subjects in 40 CFR Part 725

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

Dated: June 1, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 725—[AMENDED]

1. The authority citation for part 725 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, 2613, and 2625.

2. Add § 725.1077 to subpart M to read as follows:

§ 725.1077 Trichoderma reesei (generic).

(a) *Microorganism and significant new uses subject to reporting.* (1) The genetically modified microorganism identified generically as *Trichoderma reesei* (MCAN J–10–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2)(i) The significant new use is any manufacturing, processing, or use of the microorganism other than in a

fermentation system that meets all of the following conditions:

(A) Submerged fermentation (i.e., growth of the microorganism occurs beneath the surface of the liquid growth medium).

(B) No solid plant material or insoluble substrate is included with the microorganism for fermentation.

(C) Any fermentation of solid plant material or insoluble substrate, to which fermentation broth is added, is initiated only after the inactivation of the microorganism as delineated in 40 CFR 725.422(d).

(ii) [Reserved]

(b) [Reserved]

[FR Doc. 2012–14242 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115; DA 12–818]

Privacy and Security of Information Stored on Mobile Communications Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on the privacy and data security practices of mobile wireless services providers with respect to customer information stored on their users' mobile communications devices. In addition, the document seeks comment on the application of existing privacy and security requirements to such information.

DATES: Comments may be filed on or before July 13, 2012, and reply comments may be filed on or before July 30, 2012.

ADDRESSES: You may submit comments, identified by CC Docket No. 96–115, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* See the **SUPPLEMENTARY INFORMATION** section of this document.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. For detailed instructions for submitting comments and additional information, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For further information regarding this proceeding, contact Douglas Klein, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released by the Wireline Competition Bureau, the Wireless Telecommunications Bureau, and the Office of General Counsel on May 25, 2012. The full text of this document is available for public inspection and copying during regular business hours in the Commission's Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563 or via email *FCC@BCPIWEB.com*. The full text may also be downloaded at *http://www.fcc.gov*. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

Documents will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street SW., Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, *email fcc@bcpiweb.com*.

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

The Commission has designated this proceeding as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.; Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization,* Notice of Proposed Rulemaking, 25 FCC Rcd 2430, 2439–40 (2010). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b)

of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Summary of Public Notice

This Public Notice seeks comment on the privacy and data security practices of mobile wireless service providers with respect to customer information stored on their users' mobile communications devices and the application of existing privacy and security requirements to that information. Since the Commission last solicited public input on this question five years ago, technologies and business practices have evolved dramatically. The devices consumers use to access mobile wireless networks have become more sophisticated and powerful, and their expanded capabilities have at times been used by wireless providers to collect information about particular customers' use of the network—sometimes, it appears, without informing the customer. Service providers' collection and use of this information may be a legitimate and effective way to improve the quality of wireless services. At the same time, the collection, transmission, and storage of this customer-specific network information raise new privacy and security concerns.

Section 222 of the Communications Act of 1934, as amended, establishes the duty of every telecommunications carrier to ''protect the confidentiality of proprietary information of, and relating to * * * customers.'' Further, every carrier must protect ''customer proprietary network information'' (CPNI) that it receives or obtains by virtue of its provision of a telecommunications service and may use, disclose, or permit access to such information only in limited circumstances. The Commission is charged with enforcing those obligations.

In 2007, the Commission updated its rules implementing these statutory obligations to address the practice of ''pretexting'' and to reaffirm that carriers are responsible for taking all reasonable steps to protect their customers' private information. At the same time, the Commission adopted a Further Notice of Proposed Rulemaking to address another emerging privacy issue: the obligations of mobile carriers to secure the privacy of customer information stored in mobile communications devices. Although the Commission's particular focus in 2007 was on carriers' duty to erase customer information on mobile equipment prior to refurbishing the equipment, the issue of customer information on mobile devices has recently gained greater prominence. In particular, carriers recently have acknowledged using software embedded or preinstalled on wireless devices to collect information about the performance of the device and the provider's network.

Comparing the record collected by the Commission five years ago to the publicly available facts today highlights the need to refresh our record. In response to the 2007 Further Notice, AT&T Inc., for example, emphasized consumers' control of the information residing on their devices, stating: ''[D]ecisions about what personal data to store, or not to store, on a mobile device rest with the consumer. Carriers do not typically have access to such information and play no role in determining what information a consumer chooses to store on mobile devices or how that information is used. Indeed, in some respects, mobile communications devices are becoming more like computers, laptops, personal digital assistants and other devices that permit customers to store their information. In the same vein that consumers erase information stored on those devices (or shred paper copies of bills or other documents that contain personal information), consumers are necessarily in the best position to know what data they have stored on their mobile devices and to take responsibility for safeguarding and erasing that information before disposal or recycling the device.'' Sprint similarly stated in 2007 that ''[w]ireless carriers are not well-positioned to guarantee the privacy of customer information stored on devices'' because those devices are manufactured by suppliers and ''in the physical control and custody of customers.''

In recent months, it has become clear that these submissions are badly out of date. Mobile carriers are directing the collection and storage of customer-specific information on mobile devices. In response to questions from Congress concerning its use of Carrier IQ software, AT&T explained that it gathers customer-specific data as an ''enhance[ment of] its network reporting capabilities'' and to collect information about its network from the perspective of its users' devices, ''a view that cannot be obtained from the network alone.'' Answering the same questions, Sprint identified a ''legitimate need to deploy and use diagnostic software in the maintenance and operation of [Sprint's] services'' and described how Sprint worked with the software vendor to customize data collection for Sprint's devices and network. T–Mobile likewise stated that it uses software on its customers' mobile devices to ''assist[] T–Mobile in improving our customers' wireless experience by capturing and analyzing a narrow set of data related to some of the most common issues our customers experience.'' The data collected in this manner may be shared with a third party for purposes of network diagnostics or improving customer care.

Commission staff has itself inquired into practices of mobile wireless service providers with respect to information stored on their customers' mobile communications devices. The staff's inquiry has focused on possible harms to consumers and on what service provider obligations, if any, apply or should apply under section 222 and other provisions of law within the Commission's jurisdiction. In light of these developments, we now seek to refresh the record in this docket concerning the practices of mobile wireless service providers with respect to information stored on their customers' mobile communications devices. How have those practices evolved since we collected information on this issue in the 2007 Further Notice? Are consumers given meaningful notice and choice with respect to service providers' collection of usage-related information on their devices? Do current practices serve the needs of service providers and consumers, and in what ways? Do current practices raise concerns with respect to consumer privacy and data security? How are the risks created by these practices similar to or different from those that historically have been addressed under the Commission's CPNI rules? Have these practices created actual data-security vulnerabilities? Should privacy and data security be greater considerations in the design of software for mobile devices, and, if so, should the Commission take any steps to encourage such privacy by design? What role can disclosure of service providers' practices to wireless consumers play? To what extent should consumers bear responsibility for the privacy and

security of data in their custody or control?

Specifically with respect to section 222, we seek comment on the applicability and significance in this context of telecommunications carriers' duty under section 222(a) to protect customer information. Further, the definition of CPNI in section 222(h)(1) includes information ''that is made available to a carrier by the customer solely by virtue of the carrier-customer relationship,'' a phrase that on its face could apply to information collected at a carrier's direction even before it has been transmitted to the carrier. We seek comment on this analysis. We further seek comment on which, if any, of the following factors are relevant to assessing a wireless provider's obligations under section 222 and the Commission's implementing rules, or other provisions of law within this Commission's jurisdiction, and in what ways: whether the device is sold by the service provider; whether the device is locked to the service provider's network so that it would not work with a different service provider; the degree of control that the service provider exercises over the design, integration, installation, or use of the software that collects and stores information; the service provider's role in selecting, integrating, and updating the device's operating system, preinstalled software, and security capabilities; the manner in which the collected information is used; whether the information pertains to voice service, data service, or both; and the role of third parties in collecting and storing data.

Are any other factors relevant? If so, what are these other factors, and what is their relevance? What privacy and security obligations should apply to customer information that service providers cause to be collected by and stored on mobile communications devices? How does the obligation of carriers to ''take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI'' apply in this context? What should be the obligations when service providers use a third party to collect, store, host, or analyze such data? What would be the advantages and disadvantages of clarifying mobile service providers' obligations, if any, with respect to information stored on mobile devices—for instance through a declaratory ruling? What are the potential costs and benefits associated with such clarification?

Federal Communications Commission.

Jennifer Tatel,

Associate General Counsel, Office of General Counsel.

[FR Doc. 2012–14496 Filed 6–12–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2012–0080, Notice 1]

RIN 2127–AL09

Schedule of Fees Authorized

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes fees for Fiscal Year 2013 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS). These fees are needed to maintain the registered importer (RI) program.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than July 13, 2012.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Clint Lindsay, Office of Vehicle Safety Compliance, NHTSA (202–366–5291). For legal issues, you may call Nicholas Englund, Office of Chief Counsel, NHTSA (202–366–5263). You may call Docket Management at 202–366–9324. You may visit the Docket in person from 9 a.m. to 5 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Introduction

NHTSA published a notice on June 24, 1996 (61 FR 32411) fully discussing the rulemaking history of 49 CFR Part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, Public Law 100–562, since recodified at 49 U.S.C. 30141–47. The reader is referred to that notice for background information relating to this rulemaking action. Certain fees were initially established to become effective January 31, 1990, and have been periodically adjusted since then.

We are required to review and make appropriate adjustments at least every two years in the fees established for the administration of the RI program. *See* 49 U.S.C. 30141(e). The fees applicable in any fiscal year (FY) are to be established before the beginning of such year. *Ibid.* We are proposing fees that would become effective on October 1, 2012, the beginning of fiscal year (FY) 2013. The statute authorizes fees to cover the costs of the importer registration program, to cover the cost of making import eligibility decisions, and to cover the cost of processing the bonds furnished to the Department of Homeland Security (Customs). We last amended the fee schedule in 2010. *See* final rule published on August 11, 2010 at 75 FR 48608. Those fees apply to Fiscal Years 2011 and 2012.

Proposed fees are based on time and costs associated with the tasks for which the fees are assessed. The fees proposed

in this notice reflect the freeze in General Schedule salary rates since January 2010 and the slight increases in indirect costs attributed to the agency's overhead costs since the fees were last adjusted.

Requirements of the Fee Regulation

Section 594.6—Annual Fee for Administration of the Importer Registration Program

Section 30141(a)(3) of Title 49, U.S. Code provides that RIs must pay the annual fees established ''to pay for the costs of carrying out the registration program for importers. * * *'' This fee is payable both by new applicants and by existing RIs. To maintain its registration, each RI, at the time it submits its annual fee, must also file a statement affirming that the information it furnished in its registration application (or in later submissions amending that information) remains correct. 49 CFR 592.5(f).

To comply with the statutory directive, we reviewed the existing fees and their bases in an attempt to establish fees that would be sufficient to recover the costs of carrying out the registration program for importers for at least the next two fiscal years. The initial component of the Registration Program Fee is the fee attributable to processing and acting upon registration applications. We have tentatively determined that this fee should be increased from $320 to $330 for new applications. We also have tentatively determined that the fee for the review of the annual statement should be increased from $195 to $201. The proposed adjustments reflect our time expenditures in reviewing both new applications and annual statements with accompanying documentation, and the small increases in indirect costs attributed to the agency's overhead costs in the two years since the fees were last adjusted.

We must also recover costs attributable to maintenance of the registration program that arise from the need for us to review a registrant's annual statement and to verify the continuing validity of information already submitted. These costs also include anticipated costs attributable to the possible revocation or suspension of registrations and reflect the amount of time that we have devoted to those matters in the past two years.

Based upon our review of these costs, the portion of the fee attributable to the maintenance of the registration program is approximately $475 for each RI. When this $475 is added to the $330 representing the registration application component, the cost to an applicant for RI status comes to $805, which is the fee we propose. This represents an increase of $10 over the existing fee. When the $475 is added to the $201 representing the annual statement component, the total cost to an RI for renewing its registration comes to $676, which represents an increase of $6.

Sec. 594.6(h) enumerates indirect costs associated with processing the annual renewal of RI registrations. The provision states that these costs represent a *pro rata* allocation of the average salary and benefits of employees who process the annual statements and perform related functions, and ''a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor.'' For the purpose of establishing the fees that are currently in existence, indirect costs are $20.67 per man-hour. We are proposing to increase this figure by $0.99, to $21.66. This proposed increase is based on the difference between enacted budgetary costs within the Department of Transportation for the last two fiscal years, which were higher than the estimates used when the fee schedule was last amended, and takes into account other projected increases over the next two fiscal years.

Sections 594.7, 594.8—Fees To Cover Agency Costs in Making Importation Eligibility Decisions

Section 30141(a)(3)(B) also requires registered importers to pay other fees the Secretary of Transportation establishes to cover the costs of ''making the decisions under this subchapter.'' This includes decisions on whether the vehicle sought to be imported is substantially similar to a motor vehicle that was originally manufactured for importation into and sale in the United States and certified by its original manufacturer as complying with all applicable FMVSS, and whether the vehicle is capable of being readily altered to meet those standards. Alternatively, where there is no substantially similar U.S. certified motor vehicle, the decision is whether the safety features of the vehicle comply with, or are capable of being altered to comply with, the FMVSS based on destructive test information or such other evidence that NHTSA deems to be adequate. These decisions are made in response to petitions submitted by RIs or manufacturers, or on the Administrator's own initiative.

The fee for a vehicle imported under an eligibility decision made in response to a petition is payable in part by the petitioner and in part by other importers. The fee to be charged for each vehicle is the estimated *pro rata* share of the costs in making all the eligibility decisions in a fiscal year. The agency's direct and indirect costs must be taken into account in the computation of these costs.

Since we last amended the fee schedule, the overall number of vehicle imports by RIs has increased, while the number of petitions has remained approximately the same. The total number of vehicles that RIs imported between 2009 and 2011 more than doubled from approximately 10,000 to 23,000, respectively. Over the same period, the number of vehicles imported under an import eligibility petition that was submitted by an RI (as opposed to an import eligibility decision initiated by the agency) increased from 485 in 2009 to 514 in 2010. That number subsequently decreased to 404 in 2011. Because the number of petitions has remained level over the past two years—averaging 12 per year—the agency has devoted approximately the same amount of staff time reviewing and processing import eligibility petitions.

Based on these trends, the *pro rata* share of petition costs assessed against the importer of each vehicle covered by the eligibility decision will decrease. We project that for FY 2013 and 2014, the agency's costs for processing these 12 petitions will be $45,591. The petitioners will pay $4,600 of that amount in the processing fees that accompany the filing of their petitions, leaving the remaining $40,991 to be recovered from the importers of the approximately 404 vehicles projected to be imported under petition-based import eligibility decisions. Dividing $40,991 by 404 yields a pro rata fee of $101 for each vehicle imported under an eligibility decision that results from the granting of a petition. We are therefore proposing to decrease the pro rata share of petition costs that are to be assessed against the importer of each vehicle from $158 to $101, which represents a decrease of $57. The same $101 fee would be paid regardless of whether the vehicle was petitioned under 49 CFR 593.6(a), based on the substantial similarity of the vehicle to a U.S.-certified model, or was petitioned under 49 CFR 593.6(b), based on the safety features of the vehicle complying with, or being capable of being modified to comply with, all applicable FMVSS.

We are proposing no increase in the current fee of $175 that covers the initial processing of a ''substantially similar'' petition. Likewise, we are also proposing to maintain the existing fee of $800 to cover the initial costs for processing petitions for vehicles that have no substantially similar U.S.-

certified counterpart. In the event that a petitioner requests an inspection of a vehicle, the fee for such an inspection would remain $827 for vehicles that are the subject of either type of petition.

The importation fee varies depending upon the basis on which the vehicle is determined to be eligible. For vehicles covered by an eligibility decision on the agency's own initiative (other than vehicles imported from Canada that are covered by import eligibility numbers VSA–80 through 83, for which no eligibility decision fee is assessed), we are proposing that the fee remain $125. NHTSA determined that the costs associated with previous eligibility determinations on the agency's own initiative would be fully recovered by October 1, 2012. We propose to apply the fee of $125 per vehicle only to vehicles covered by determinations made by the agency on its own initiative on or after October 1, 2012.

Section 594.9—Fee for Reimbursement of Bond Processing Costs and Costs for Processing Offers of Cash Deposits or Obligations of the United States in Lieu of Sureties on Bonds

Section 30141(a)(3) also requires a registered importer to pay any other fees the Secretary of Transportation establishes ''to pay for the costs of—(A) processing bonds provided to the Secretary of the Treasury * * *.'' upon the importation of a nonconforming vehicle to ensure that the vehicle would be brought into compliance within a reasonable time, or if it is not brought into compliance within such time, that it be exported, without cost to the United States, or abandoned to the United States.

The Department of Homeland Security (Customs) exercises the functions associated with the processing of these bonds. To carry out the statute, we make a reasonable determination of the costs that Department incurs in processing the bonds. In essence, the cost to Customs is based upon an estimate of the time that a GS–9, Step 5 employee spends on each entry, which Customs has judged to be 20 minutes.

When the fee schedule was last amended, we projected General Schedule salary raises to be effective in January 2011 and 2012. Based on our projections over the next two fiscal years, we are proposing that the processing fee be decreased by $0.84, from $9.93 per bond to $9.09. This decrease reflects the fact that GS–9 salaries have been frozen since we last amended the fee schedule in 2010. The $9.09 proposed fee would more closely reflect the direct and indirect costs that should be associated with processing the bonds.

In lieu of sureties on a DOT conformance bond, an importer may offer United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills (collectively referred to as ''cash deposits'') in an amount equal to the amount of the bond. 49 CFR 591.10(a). The receipt, processing, handling, and disbursement of the cash deposits that have been tendered by RIs cause the agency to consume a considerable amount of staff time and material resources. NHTSA has concluded that the expense incurred by the agency to receive, process, handle, and disburse cash deposits may be treated as part of the bond processing cost, for which NHTSA is authorized to set a fee under 49 U.S.C. 30141(a)(3)(A). We first established a fee of $459 for each vehicle imported on and after October 1, 2008, for which cash deposits or obligations of the United States are furnished in lieu of a conformance bond. *See* the Final Rule published on July 11, 2008 at 73 FR 39890.

The agency considered its direct and indirect costs in calculating the fee for the review, processing, handling, and disbursement of cash deposits submitted by importers and RIs in lieu of sureties on a DOT conformance bond. We are proposing to decrease the fee from $514 to $495, which represents a decrease of $19. The factors that the agency has taken into account in proposing the fee include time expended by agency personnel, the slight increase in overhead costs, and the reduction in projected salary costs based on the General Schedule salary freeze since January 2010.

Section 594.10—Fee for Review and Processing of Conformity Certificate

Each RI is currently required to pay $17 per vehicle to cover the costs the agency incurs in reviewing a certificate of conformity. We estimate that these costs will decrease from $17 to an average of $12 per vehicle. Although our overhead costs increased, the salary and benefit costs are less than our previous projections based on the General Schedule salary freeze. The number of certificates of conformity submitted for agency review has increased. This has decreased the agency's cost attributed to the review of each certificate of conformity. Based on these estimates, we are proposing to decrease the fee charged for vehicles for which a paper entry and fee payment is made, from $17 to $12, a difference of $5 per vehicle. However, if an RI enters a vehicle through the Automated Broker Interface (ABI) system, has an email address to receive communications from NHTSA, and pays the fee by credit card, the cost savings that we realize allow us to significantly reduce the fee to $6. We propose to apply the fee of $6 per vehicle if all the information in the ABI entry is correct.

Errors in ABI entries not only eliminate any time savings, but also require additional staff time to be expended in reconciling the erroneous ABI entry information to the conformity data that is ultimately submitted. Our experience with these errors has shown that staff members must examine records, make time-consuming long distance telephone calls, and often consult supervisory personnel to resolve the conflicts in the data. We have calculated this staff and supervisory time, as well the telephone charges, to amount to approximately $57 for each erroneous ABI entry. Adding this to the $6 fee for the review of conformity packages on automated entries yields a total of $63, representing no increase in the fee that is currently charged when there are one or more errors in the ABI entry or in the statement of conformity.

Effective Date

The proposed effective date of the final rule is October 1, 2012.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under Executive Order 12886. Further, NHTSA has determined that the rulemaking is not significant under Department of Transportation's regulatory policies and procedures. Based on the level of the fees and the volume of affected vehicles, NHTSA currently anticipates that if made final, the costs of the proposed rule would be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. If made final, the rule would have no substantial effect upon State and local governments. There would be no substantial impact upon a major transportation safety program. A regulatory evaluation analyzing the economic impact of the final rule establishing the registered importer program, adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR § 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The agency has considered the effects of this proposed rulemaking under the Regulatory Flexibility Act, and certifies that if the proposed amendments are adopted they would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendments would primarily affect entities that currently modify nonconforming vehicles and that are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency has no reason to believe that these companies would be unable to pay the fees proposed by this action. In most instances, these fees would not be changed or be only modestly increased (and in some instances decreased) from the fees now being paid by these entities. Moreover, consistent with prevailing industry practices, these fees should be passed through to the ultimate purchasers of the vehicles that are altered and, in most instances, sold by the affected registered importers. The cost to owners or purchasers of nonconforming vehicles that are altered to conform to the FMVSS may be expected to increase (or decrease) to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of carrying out the registration program and making eligibility decisions, and to compensate Customs for its bond processing costs.

Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' Executive Order 13132 defines the term ''policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Moreover, NHTSA is required by statute to impose fees for the administration of the RI program and to review and make necessary adjustments in those fees at least every two years. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 ''Civil Justice Reform,'' the agency has considered whether this proposed rule would have any retroactive effect. NHTSA concludes that this proposed rule would not have any retroactive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

F. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with the base year of 1995). Before promulgating a rule for which a written assessment is needed, Section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-

effective or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Because a final rule based on this proposal would not require the expenditure of resources beyond $100 million annually, this action is not subject to the requirements of Sections 202 and 205 of the UMRA.

G. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the proposed rule clearly stated?
—Does the proposed rule contain technical language or jargon that is unclear?
—Would a different format (grouping and order of sections, use of heading, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Part 594 includes collections of information for which NHTSA has obtained OMB Clearance No. 2127–0002, a consolidated collection of information for ''Importation of Vehicles and Equipment Subject to the Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards,'' approved through 01/31/2014. This proposed rule, if made final, would not affect the burden hours associated with Clearance No. 2127–0002 because we are proposing only to adjust the fees associated with participating in the registered importer program. These proposed new fees will not impose new collection of information requirements or otherwise affect the scope of the program.

I. Executive Order 13045

Executive Order 13045 applies to any rule that (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking is not economically significant and does not concern an environmental, health, or safety risk.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

In this proposed rule, we propose to adjust the fees associated with the registered importer program. We propose no substantive changes to the program nor do we propose any technical standards. For these reasons, Section 12(d) of the NTTAA would not apply.

K. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. 49 CFR 553.21. We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

You may also submit your comments electronically to the docket following the steps outlined under **ADDRESSES**.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit the following to the NHTSA Office of Chief Counsel (NCC–110), 1200 New Jersey Avenue SE., Washington, DC 20590: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR Part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR Part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of Part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under DATES. In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as

an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov* and follow the online instructions provided.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

L. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN that appears in the heading on the first page of this document to find this action in the Unified Agenda.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 594 as follows:

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

PART 594—SCHEDULE OF FEES AUTHORIZED BY 49 U.S.C. 30141

1. The authority citation for part 594 continues to read as follows:

Authority: 49 U.S.C. 30141, 31 U.S.C. 9701; delegation of authority at 49 CFR 1.50.

2. Amend § 594.6 by:

(a) Revising the introductory text of paragraph (a);

(b) Revising paragraph (b);

(c) Revising in paragraph (d) the first sentence;

(d) Revising the second sentence of paragraph (h); and

(e) Revising paragraph (i) to read as follows:

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to part 592 of this chapter on or after October 1, 2012, must pay an annual fee of $805, as calculated below, based upon the direct and indirect costs attributable to: * * *

* * * * *

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed on and after October 1, 2012, is $330. The sum of $330, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(d) That portion of the initial annual fee attributable to the remaining activities of administering the registration program on and after October 1, 2012, is set forth in paragraph (i) of this section. * * *

* * * * *

(h) * * * This cost is $21.66 per man-hour for the period beginning October 1, 2012.

(i) Based upon the elements and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period beginning October 1, 2012, is $475. When added to the costs of registration of $330, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are $805. The annual renewal registration fee for the period beginning October 1, 2012, is $676.

* * * * *

3. Amend § 594.7 by revising the first sentence of paragraph (e) to read as follows:

§ 594.7 Fee for filing petitions for a determination whether a vehicle is eligible for importation.

* * * * *

(e) For petitions filed on and after October 1, 2012, the fee payable for seeking a determination under paragraph (a)(1) of this section is $175. * * *

* * * * *

4. Amend § 594.8 by revising the first sentence of paragraph (b) and the first sentence of (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(b) If a determination has been made pursuant to a petition, the fee for each vehicle is $101. * * *

(c) If a determination has been made on or after October 1, 2012, pursuant to the Administrator's initiative, the fee for each vehicle is $125. * * *

5. Amend § 594.9 by revising paragraph (c) and (e) to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs and costs for processing offers of cash deposits or obligations of the United States in lieu of sureties on bonds.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 2012, for which a certificate of conformity is furnished, is $9.09.

* * * * *

(e) The fee for each vehicle imported on and after October 1, 2012, for which cash deposits or obligations of the United States are furnished in lieu of a conformance bond, is $495.

6. Amend § 594.10 by revising the first sentence of paragraph (d) to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

* * * * *

(d) The review and processing fee for each certificate of conformity submitted on and after October 1, 2012 is $12. * * *

Issued on: June 6, 2012.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2012–14366 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1572

[Docket No. TSA–2004–19605]

Provisions for Fees Related to Hazardous Materials Endorsements and Transportation Worker Identification Credentials

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Transportation Security Administration (TSA) has a statutory obligation to recover its costs for conducting security threat assessments (STAs) and credentialing for Hazardous Materials Endorsements (HMEs) and Transportation Worker Identification Credentials (TWICs). These fees reimburse TSA for the costs of administering the programs. The proposed rule advises that future revisions to fee schedules will be published in the **Federal Register**. After public comments, TSA proposes to publish a final rule that removes specific fee amounts from 49 CFR 1572.403 (state collection of HME fee),

1572.405 (TSA collection of HME fee), and 1572.501 (collection of TWIC fee) to enable TSA to have necessary flexibility to lower or increase fees as necessary to meet the statutory obligation to recover its costs.

DATES: Submit comments by July 30, 2012.

ADDRESSES: You may submit comments, identified by the TSA docket number to this rulemaking, to the Federal Docket Management System (FDMS), a government-wide, electronic docket management system, using any one of the following methods:

Electronically: You may submit comments through the Federal eRulemaking portal at *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Mail, In Person, or Fax: Address, hand-deliver, or fax your written comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; fax (202) 493–2251. The Department of Transportation (DOT), which maintains and processes TSA's official regulatory dockets, will scan the submission and post it to FDMS.

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Carolyn Mitchell, Office of Security Policy and Industry Engagement, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6002; telephone (571) 227–2372; email *carolyn.mitchell@dhs.gov*.

For legal questions: Traci Klemm, Office of Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6002; telephone (571) 227–3596; facsimile (571) 227–1378; email *traci.klemm@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from this rulemaking action. See **ADDRESSES** above for information on where to submit comments.

With each comment, please identify the docket number at the beginning of your comments. TSA encourages commenters to provide their names and addresses. The most helpful comments reference a specific portion of the rulemaking, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, by mail, or fax as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you would like TSA to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

TSA will file all comments to our docket address, as well as items sent to the address or email under **FOR FURTHER INFORMATION CONTACT**, in the public docket, except for comments containing confidential information and sensitive security information (SSI).[1] Should you wish your personally identifiable information redacted prior to filing in the docket, please so state. TSA will consider all comments that are in the docket on or before the closing date for comments and will consider comments filed late to the extent practicable. The docket is available for public inspection before and after the comment closing date.

Handling of Confidential or Proprietary Information and Sensitive Security Information (SSI) Submitted in Public Comments

Do not submit comments that include trade secrets, confidential commercial or financial information, or SSI to the public regulatory docket. Please submit such comments separately from other comments on the rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address listed in **FOR FURTHER INFORMATION CONTACT** section.

TSA will not place comments containing SSI in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access, and place a note in the public docket explaining that commenters have submitted such documents. TSA may include a redacted version of the comment in the public docket. If an individual requests to examine or copy information that is not in the public docket, TSA will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's (DHS') FOIA regulation found in 6 CFR part 5.

[1] ''Sensitive Security Information'' or ''SSI'' is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

Reviewing Comments in the Docket

Please be aware that anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual who submitted the comment (or signed the comment, if an association, business, labor union, etc., submitted the comment). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) and modified on January 17, 2008 (73 FR 3316).

You may review TSA's electronic public docket on the Internet at *http://www.regulations.gov.* In addition, DOT's Docket Management Facility provides a physical facility, staff, equipment, and assistance to the public. To obtain assistance or to review comments in TSA's public docket, you may visit this facility between 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, or call (202) 366–9826. This docket operations facility is located in the West Building Ground Floor, Room W12–140 at 1200 New Jersey Avenue SE., Washington, DC 20590.

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the **Federal Register** by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT**

section. Make sure to identify the docket number of this rulemaking.

Abbreviations and Terms Used in This Document

CDL—Commercial Driver's License
CHRC—Criminal History Records Check
FBI—Federal Bureau of Investigation
HME—Hazardous Materials Endorsement
IFR—Interim Final Rule
MTSA—Maritime Transportation Security Act
STA—Security Threat Assessment
TWIC—Transportation Worker Identification Credential

Background

Approximately 2 million workers, including Coast Guard-credentialed merchant mariners, port facility employees, longshore workers, truck drivers, and others requiring unescorted access to secure areas of maritime facilities and vessels regulated under the Maritime Transportation Security Act (MTSA)[2] must successfully complete an STA and hold a TWIC in order to enter secure areas without an escort.[3] TSA conducts the STA and issues the credential, and the Coast Guard enforces the use of TWIC at MTSA-regulated facilities.

As part of the process for obtaining a TWIC, applicants must pay a fee made up of three segments: Enrollment Segment, Full Card Production/Security Threat Assessment Segment, and Federal Bureau of Investigation (FBI) Segment.[4] Most applicants pay the Standard TWIC Fee, which includes all three segments. Applicants who have completed a comparable threat assessment, such as the threat assessment TSA conducts on commercial drivers with a HME, pay a reduced TWIC Fee.[5]

In the TSA Hazardous Materials Endorsement Threat Assessment Program (HME Program), TSA conducts an STA for any driver seeking to obtain, renew, or transfer a hazardous materials endorsement (HME) on a state-issued commercial driver's license (CDL). The program was implemented to meet a statutory requirement that prohibits states from issuing a license to transport hazardous materials (hazmat) in commerce unless a determination has been made that the driver does not pose a security risk. The Act further requires that the risk assessment include checks of criminal history records, legal status, and relevant international databases.[6]

Applicants for an HME pay a fee to cover the (1) costs of performing and adjudicating STAs, appeals, and waivers (Threat Assessment Fee); (2) the costs of collecting and transmitting fingerprints and applicant information (Information Collection Fee); and (3) the fee charged by the FBI to perform a criminal history records check (CHRC), called the FBI Fee.[7] States that choose to collect applicant information directly and submit it to TSA may charge applicants a State fee for that service, and TSA has no regulatory authority to control or determine that fee.

These TWIC and HME fee amounts, which reimburse TSA for the costs of administering the programs, are specifically identified in current 49 CFR 1572.403 (state collection of HME fees), 1572.405 (TSA collection of HME fees), and 1572.501 (collection of TWIC fee). After receiving and evaluating public comments, TSA proposes to publish a final rule that removes specific fee amounts for these programs in 49 CFR part 1572, and instead publish any revisions to fee schedules in the **Federal Register**. These revisions to 49 CFR part 1572 will enable TSA to meet its statutory mandate to recover the costs of these programs, continue to fund these programs on an ongoing basis, provide notice to affected stakeholders of any revisions to the fees, and meet contractual obligations with vendors.

This proposed rule consists of an administrative revision. Therefore, there are no industry costs associated with the proposal. TSA costs for implementing the proposed rule would consist of administrative costs largely covered by current operations and therefore considered de minimis.

Legal Authority To Collect Fees

MTSA required DHS to issue regulations to prevent individuals from entering secure areas of vessels or MTSA-regulated port facilities unless such individuals undergo a successful STA and hold TWICs. In addition, nearly all credentialed merchant mariners are required to hold these transportation security cards.[8] MTSA also required DHS to establish a waiver and appeals process for persons found to be ineligible for the required transportation security card.[9]

Under 49 U.S.C. 5103a, a State is prohibited from issuing or renewing a commercial driver's license (CDL) unless the Secretary of Homeland Security has first determined that the driver does not pose a security threat warranting denial of the HME.[10] HME program regulations require States to choose between two fingerprint collection options: (1) the State collects and transmits the fingerprints and applicant information of drivers who apply to renew or obtain an HME; or (2) the State chooses to have a TSA agent to collect and transmit the fingerprints and applicant information of such drivers.[11] Under the regulations, States were required to notify TSA in writing of their choice by December 27, 2004, and are required to maintain that choice for at least three years.

Congress directed TSA to collect user fees to cover the costs of its vetting and credentialing programs.[12] TSA must collect fees to pay for conducting or obtaining a CHRC; reviewing pertinent law enforcement databases, and records of other governmental and international agencies; reviewing and adjudicating requests for waivers and appeals of TSA decisions; and any other costs related to conducting the STA or providing a credential.

The statute requires that any fee collected must be available only to pay for the costs incurred in providing services in connection with performing the STA or providing the credential. The funds generated by the fee do not have a limited period of time in which they must be used; as fee revenue and service costs do not always match perfectly for a given period, a program may need to carry over funding from one fiscal year to the next to ensure that sufficient funds are available to continue normal program operations.

[2] *See* 46 U.S.C. 70105.

[3] *See* 33 CFR 105.514. *See also* 72 FR 3492 (Jan. 25, 2007) (TWIC and HME Final Rule).

[4] *See* TWIC and HME Final Rule at 3506.

[5] These applicants are not charged for the FBI Segment and pay a reduced fee for the Full Card Production/Security Threat Assessment Segment.

[6] *See* 69 FR 68720 (Nov. 24, 2004) (HME Program IFR) and the TWIC and HME Final Rule for more background information on the HME Program.

[7] 70 FR 2542 (Jan. 13, 2005) (HME Fees Final Rule).

[8] As noted in the Fall 2011 regulatory agenda, the Coast Guard is currently revising its merchant mariner credentialing regulations to implement changes made by section 809 of the Coast Guard Authorization Act of 2010, codified at 46 U.S.C. 70105(b)(2), which reduces the population of mariners who are required to obtain and hold a valid Transportation Worker Identification Credential (TWIC).

[9] *See* sec. 105 of MTSA (Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002)), codified at 46 U.S.C. 70105, as amended by the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006).

[10] Public Law 107–56, 115 Stat. 272 (Oct. 25, 2001) as updated by Public Law 110–244, SAFETEA–LU Technical Corrections Act of 2008 (June 6, 2008), codified at 49 U.S.C. 5103a. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Administrator, subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA.

[11] *See* 49 CFR 1572.13. For more background information on the HME program, *see,* HME Program IFR as amended by the TWIC and HME Final Rule.

[12] *See* 6 U.S.C. 469.

TSA will comply with the The Chief Financial Officers (CFO) Act of 1990[13] and Office of Management and Budget Circular A–25,[14] regularly reviewing the fee program to ensure that fees correctly recover, but do not exceed, the full cost of services and make appropriate adjustments to the fees.

Current Fees

The following table identifies current fees for obtaining a TWIC[15] or HME.[16]

TABLE 1—CURRENT TWIC AND HME FEES

	TWIC (49 CFR 1572.501)	HME (collected by State) (49 CFR 1572.403)	HME (collected by TSA or its agent) (49 CFR 1572.405)
Enrollment Segment or costs for TSA or its agent to enroll applicants.	$43.25	N/A	$38.00.
STA Segment or costs for TSA to conduct security threat assessment and produce cards.	$72.00	$34.00	$35.00.
FBI Segment or costs for fingerprint identification records.	Determined by FBI	Determined by FBI	Determined by FBI.
Card Replacement	$60.00	N/A	N/A.

There are reduced fees for TWIC applicants if they have undergone a comparable threat assessment.[17] There are reduced fees for HME applicants if they have undergone a comparable threat assessment (TWIC STA) and the issuing State chooses to offer comparability to HME applicants.

Standards and Guidelines Used To Calculate the Fees

TSA has a statutory obligation to recover its costs for the HME and TWIC STA programs through user fees. These fees reimburse TSA for the costs of administering the program. Pursuant to the general user fee statute (31 U.S.C. 9701) and OMB circular A–25, TSA establishes user fees after providing the public notice and an opportunity to comment on the amount of the fee and the methodology TSA used to develop the fee amount.

Methodology Used To Calculate the Fees

The methodology and considerations supporting TWIC fee determinations are explained in detail in the preamble to the TWIC Final Rule.[18] The standard TWIC fee includes cost components associated with enrollment and credential issuance; threat assessment and adjudication including appeals and waivers; card production; TSA program and systems costs; and the FBI fee to conduct the CHRC.

The methodology and considerations supporting the HME fee determinations were explained in detail in the preamble to the HME Fees Final Rule.[19] The standard HME fee includes cost components associated with enrollment; threat assessment and adjudication including appeals and waivers; TSA program and systems costs; and the FBI fee to conduct the CHRC. States have the option to collect and transmit an applicant's biographic and biometric information directly to TSA, or the State may elect to use the TSA agent to collect and transmit applicant biographic and biometric data. For States that collect applicant data themselves, the enrollment component of the fee may vary by State, but other costs (threat assessment and adjudication costs, TSA program and system costs, FBI CHRC costs) will remain the same regardless of State.

In finalizing these methodologies, TSA considered comments from individual commercial drivers; labor organizations; trucking industry associations; State Departments of Motor Vehicles; associations representing the agricultural, chemical, explosives, and petroleum industries; and associations representing State governments.[20] TSA does not intend to change the methodologies for determining these fees.

Factors That Could Affect Fees

As explained in the methodology discussion for the TWIC and HME rules, there are certain factors that could cause changes in the fees, such as inflation. Fees could also be affected by cost changes in contractual services for enrollment, adjudication, credentialing and other factors. For example, as explained in the methodologies proposed for TWIC and HME fees,[21] TSA uses contract services to support the TWIC and HME STA programs, including enrollment services, adjudication support, credentialing, technology development, technology operations and maintenance, and customer service support. When the pertinent contracts for services are amended or renegotiated,[22] the fees may be affected. Cost variations, such as changes in the number of enrollments, could also affect fees.

In addition, pursuant to the Chief Financial Officers Act of 1990 (Pub. L. 101–576, 104 Stat. 2838, Nov. 15, 1990), DHS/TSA is required to review fees no less than every two years (31 U.S.C. 3512). Upon review, if TSA finds that the fees are either too high (that is, total fees exceed the total cost to provide the services) or too low (total fees do not cover the total costs to provide the services) TSA must adjust the fee.

[13] Public Law 101–576 (codified at 31 U.S.C. 501 *et seq.*).

[14] Available at *http://www.whitehouse.gov/omb/circulars_a025*.

[15] *See* 49 CFR 1572.501(d).

[16] *See* 49 CFR 1572.405.

[17] *See* 49 CFR 1572.501(d).

[18] The preambles to the HME Fees Final Rule and TWIC and HME Final Rule included a discussion of the potential range of fees that would be charged for each Segment of the applicable program. The TWIC and HME Final Rule did not publish specific fees for each Segment of the TWIC program because the contract for enrollment and card production services was not finalized at that time. TSA explained in the preamble that when the contract was executed and final fee amounts determined, it would publish a notice in the **Federal Register** announcing them. The final fee amounts were published in March 2007. *See* 72 FR 13026 (March 20, 2007).

[19] Additional information can be found in the preamble to the HME Fees NPRM (69 FR 65332 (Nov. 10, 2004)).

[20] *See* discussion regarding comments received in the HME Fees Final Rule, at 2545 *et seq.* and the TWIC and HME Final Rule at 2552 *et seq.*

[21] For TWIC, see the TWIC Program NPRM, 71 FR 29396, at 29426 *et seq.* (May 22, 2006), as further clarified by the TWIC and HME Final Rule, at 3506 *et seq.* For HME, see the HME Fees NPRM, as further clarified by the HME Fees Final Rule.

[22] *See, e.g.,* TSA published a request for proposal (RFP) in June 2011 related to TSA enrollment services to support TWIC, HME and other programs (Solicitation Number: HSTS–02–R–11TTC721). This RFP is available at *https://www.fbo.gov/index?s=opportunity&mode=form&id=baa296652eb065c4220b61156e07e289&tab=core&_cview=1.*

Changes to Existing Rules and Communication of Fee Schedules

As previously discussed, TSA has a statutory requirement to sustain the HME and TWIC STA programs through user fees. Currently, TSA is at risk of having to suspend issuance of credentials to meet HME or TWIC program requirements or decreasing services until a rule change is completed to reflect any changes in fee amounts. To address this issue, TSA is proposing to revise existing regulations to ensure that TSA can continue to fund these programs on an ongoing basis, provide notice to affected stakeholders of any revisions to the fees, and meet contractual obligations with vendors.

TSA is proposing to amend 49 CFR 1572.403(a) (state collection of HME fees), 1572.405(a) (TSA collection of HME fees), and 1572.501(b) (collection of TWIC fees) to remove references to specific fee amounts, and instead publish any revisions to fee schedules in the **Federal Register**.

These amendments would make the provisions for HME and TWIC fees consistent with regulations regarding fees for STAs collected under 49 CFR part 1540, subpart C (related to civil aviation security). They would also be consistent with methods for communicating changes for fees required by the FBI [23] and the Federal Emergency Management Agency.[24]

These proposed revisions would not affect FBI fees, as specified in 49 CFR 1572.403(a)(2) (state collection of HME fees), 1572.405(a)(3) (TSA collection of HME fees), and 1572.501(b)(3). The proposed revisions would also not affect the ability of a State to collect any other fees that it may impose on an individual who applies to obtain or renew an HME, as specified in current 49 CFR 1572.403(b)(3).

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA sec. 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. TSA has determined that this proposed rule does not affect current information collection requirements associated with the affected regulatory provisions.

TSA has two collection requirements relevant to this rulemaking. For TWIC purposes (OMB 1652–0047), TSA collects information needed to process TWIC enrollment and conduct the STA. At the enrollment center, applicants verify their biographic information and provide identity documentation, biometric information, and proof of immigration status (if required). This information allows TSA to complete a comprehensive STA. If TSA determines that the applicant is qualified to receive a TWIC, TSA notifies the applicant that their TWIC is ready for activation. Once activated, this credential will be used for identification verification and access control. TSA also conducts a survey to capture worker overall satisfaction with the enrollment process; this optional survey is provided during the activation period. For purposes of the HME (OMB 1652–0027), the collection involves applicant submission of biometric and biographic information for TSA's STA in order to obtain the HME on a CDL issued by the States and the District of Columbia. Both of these collections are currently pending renewal.

Economic Impact Analyses

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several types of economic analyses. First, Executive Orders (E.O.s) 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards and, where appropriate to use them as the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

Executive Order 12866 Assessment

In conducting these analyses, TSA provides the following conclusions and summary information:

1. TSA has determined that this rulemaking is not a ''significant regulatory action'' as defined in E.O. 12866;

2. TSA has certified that this rulemaking would not have a significant impact on a substantial number of small entities;

3. TSA has determined that this rulemaking imposes no significant barriers to international trade as defined by the Trade Agreement Act of 1979; and

4. TSA has determined that this rulemaking does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector as defined by the Unfunded Mandates Reform Act (UMRA).

The basis for these conclusions is set forth below.

Costs

This proposed rule consists of an administrative revision. Therefore, there are no industry costs associated with the proposal. TSA costs for implementing the proposed rule would consist of administrative costs largely covered by current operations and therefore considered de minimis.

Benefits

By statute, TSA must sustain the HME and TWIC STA programs through user fees. The proposed revisions to existing regulations would increase TSA's flexibility to modify fees, as necessary, to ensure that STA, enrollment and credentialing fees reflect their associated costs, thus creating a more efficient process. This ability would facilitate the continual and ongoing funding of the TWIC and HME programs, allow TSA to timely meet contractual obligations with vendors, and still provide sufficient notice to affected stakeholders of any revisions to the fees.

Absent the ability to amend fees through notice rather than rulemaking, TSA is less likely to make timely changes to fees when associated costs change, such as contracts or vendor pricing, and when such changes are made, there is an increased likelihood that they would be more dramatic. Amending fees through notice would allow for more incremental changes and reduce the risk of TSA suspending issuance of credentials to meet HME or TWIC program requirements or

[23] *See* 76 FR 78950 (Dec. 20, 2011).

[24] *See* 74 FR 66138 (Dec. 14, 2009).

decreasing services until a rule change is completed to reflect the new fee amount.

Regulatory Flexibility Act Assessment

When an agency issues a proposed rulemaking, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities,'' [25] Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity.

The proposed rule is an administrative revision to 49 CFR 1572 Subpart E (''Fees for Security Threat Assessments for Hazmat Drivers'') and Subpart F (''Fees for Security Threat Assessments for Transportation Worker Identification Credential (TWIC)'') and does not impose any additional direct costs on the maritime or hazardous material transportation industries, including costs incurred by small entities. Therefore, TSA certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities. However, TSA invites comments from members of the public who believe there would be a significant impact.

Small entities impacted by current HME and TWIC fee collection regulations, which this proposed rule is revising, include maritime industries associated with ports (*i.e.,* vessels and facilities) regulated under the MTSA. Specifics on impacted entities are provided in the TWIC Implementation in the Maritime Sector Final Rule Regulatory Impact Assessment published December 21, 2006.[26] Using the North American Industry Classification System (NAICS) codes and information from the 2007 Economic Census,[27] TSA identified 11,395 covered entities of which 90 percent (10,206) are considered small based on Small Business Administration (SBA) standards. Truck drivers who transport hazardous materials required to obtain a HME as a supplement to their CDL are also impacted by the current HME and TWIC fee collection regulations.[28] Some transportation companies hauling hazardous materials (in other words, for-hire contractors transporting hazardous materials) may be impacted by the HME requirement. TSA assumes firms engaging in truck transportation of hazmat are generally found in the specialized freight trucking industry (NAICS code 4842). Economic Census 2007 data [29] indicates 39,023 entities operating under NAICS code 4842 of which 99.6 percent (38,868) would be considered small based on SBA size standards (revenues of $25.5 million or less). Therefore, the current HME and TWIC fee collection regulations, which this proposed rule is revising, impacts a substantial number of small entities. However, as stated previously, this proposed rule is an administrative change and does not result in any additional direct costs on the maritime or hazmat industry, including costs incurred by small entities in those industries. As such, TSA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and as TSA has determined that there are no associated industry costs, it does not impose significant barriers to international trade.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of E.O. 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact Analysis

The energy impact of the action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1572

Appeals, Commercial Driver's License, Criminal history background checks, Explosives, Facilities, Hazardous materials transportation, Maritime security, Merchant mariners,

[25] *See* 5 U.S.C. 603(a).

[26] *See, e.g.,* Deep Sea Freight Transport (NAICS 483111), Deep Sea Passenger Transport (NAICS 483112), Coastal and Great Lakes Freight Transport (NAICS 483113), Coastal and Great Lakes Passenger Transport (NAICS 48314), Inland Water Freight Transport (NAICS 483211), Inland Water Passenger Transport (NAICS 483212), Scenic and Sightseeing Transportation, Water (NAICS 487210), Navigational Services to Shipping (NAICS 488330), Other Support Activities for Water Transportation (NAICS 488390), Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing (NAICS 532411), Sightseeing Water (NAICS 48799), Casinos (except Casino Hotels) (NAICS 713210), Other Gambling Industries (NAICS 713930), Marinas (NAICS 713930), Ports and Harbors (NAICS 488310), Marine Cargo Handling (NAICS 48832), Seafood Product Preparation and Packaging (NAICS 3117), Ship Building and Repair (NAICS 336611), Boat Building (NAICS 336612).

[27] U.S. Census Bureau, Business & Industry, 2007 Economic Census (available at <*http://www.census.gov/econ/*> (Subject Series: Establishment and Firm Size (national) Table 4. Revenue Size of Firms for the U.S.) and (Summary Series: General Summary (national) Table 1. Industry Statistics for the U.S.).

[28] *See* 49 CFR 1572.403 and 1573.405.

[29] U.S. Census Bureau, Business & Industry, 2007 Economic Census; Sector 48: Transportation and Warehousing: Subject Series—Estab & Firm Size: Summary Statistics by Revenue Size of Firms for the United States: 200. Available at <*http://factfinder.census.gov/servlet/IBQTable?_bm=y&-ds_name=EC0748SSSZ4&-ib_type=NAICS2007&-NAICS2007=4842*>.

Motor carriers, Motor vehicle carriers, Ports, Seamen, Security measures, Security threat assessment, Vessels, Waivers.

The Proposed Amendments

For the reasons set forth in the preamble, the Transportation Security Administration proposes to amend part 1572 of Chapter XII of Title 49, Code of Federal Regulations, as follows:

PART 1572—CREDENTIALING AND SECURITY THREAT ASSESSMENTS

1. The authority citation for part 1572 continues to read as follows:

Authority: 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; 18 U.S.C. 842, 845; 6 U.S.C. 469.

Subpart E—Fees for Security Threat Assessments for Hazmat Drivers

2. In § 1572.403 revise parapgraphs (a) through (a)(3) to read as follows:

§ 1572.403 Procedures for collection by States.

* * * * *

(a) *Imposition of fees.* (1) An individual who applies to obtain or renew an HME, or the individuals' employer, must remit to the State the Threat Assessment Fee and the FBI Fee, in a form and manner approved by TSA and the State, when the individual submits the application for the HME to the State.

(2) TSA shall publish the Threat Assessment Fee described in this subpart for an individual who applies to obtain or renew and HME as a notice in the **Federal Register**. TSA reviews the amount of the fees periodically, at least once every two years, to determine the current cost of conducting security threat assessments. Fee amounts and any necessary revisions to the fee amounts shall be determined by current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other applicable Federal law.

(3) The FBI Fee required for the FBI to process fingerprint identification records and name checks required under 49 CFR part 1572 is determined by the FBI under Public Law 101–515. If the FBI amends this fee, the individual must remit the amended fee.

* * * * *

3. In § 1572.405 revise paragraphs (a)(1) through (a)(4) to read as follows:

§ 1572.405 Procedures for collection by TSA.

* * * * *

(a) *Imposition of fees.* (1) An individual who applies to obtain or renew an HME, or the individuals' employer, must remit to the TSA agent the Information Collection Fee, Threat Assessment Fee, and FBI Fee, in a form and manner approved by TSA, when the individual submits the application required under 49 CFR part 1572.

(2) TSA shall publish the Information Collection Fee and Threat Assessment Fee described in this subpart for an individual who applies to obtain or renew and HME as a notice in the **Federal Register**. TSA reviews the amount of the fees periodically, at least once every two years, to determine the current cost of conducting security threat assessments. Fee amounts and any necessary revisions to the fee amounts shall be determined by current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other applicable Federal law.

(3) The FBI Fee required for the FBI to process fingerprint identification records and name checks required under 49 CFR part 1572 is determined by the FBI under
Pub. L. 101–515. If the FBI amends this fee, TSA or its agent, will collect the amended fee.

* * * * *

Subpart F—Fees for Security Threat Assessments for Transportation Worker Identification Credential (TWIC)

3. Amend § 1572.501 by revising introductory paragraph (b) through (b)(3), (c)(1) through (c)(2), (d), and (g) to read as follows:

§ 1572.501 Fee collection.

* * * * *

(b) *Standard TWIC Fees.* The fee to obtain or renew a TWIC, except as provided in paragraphs (c) and (d) of this section, includes the following segments:

(1) The Enrollment Segment Fee covers the costs for TSA or its agent to enroll applicants.

(2) The Full Card Production/Security Threat Assessment Segment Fee covers the costs for TSA or its agent to conduct a security threat assessment and produce the TWIC.

(3) The FBI Segment Fee covers the costs for the FBI to process fingerprint identification records, and is the amount collected by the FBI under Pub. L. 101–515. If the FBI amends this fee, TSA or its agent will collect the amended fee.

(c) * * *

(1) The Enrollment Segment Fee covers the costs for TSA or its agent to enroll applicants.

(2) The Reduced Card Production/Security Threat Assessment Segment covers the costs for TSA to conduct a portion of the security threat assessment and issue a TWIC.

(d) *Card Replacement Fee.* The Card Replacement Fee covers the costs for TSA to replace a TWIC when a TWIC holder reports that his/her TWIC has been lost, stolen, or damaged.

* * * * *

(g) *Imposition of fees.* TSA routinely establishes and collects fees to conduct the security threat assessment and credentialing process. These fees apply to all entities requesting a security threat assessment and/or credential. The fees described in this section for an individual who applies to obtain, renew, or replace a TWIC under 49 CFR part 1572, shall be published as a notice in the **Federal Register**. TSA reviews the amount of these fees periodically, at least once every two years, to determine the current cost of conducting security threat assessments. Fee amounts and any necessary revisions to the fee amounts shall be determined by current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other applicable Federal law.

Issued in Arlington, Virginia, on June 5, 2012.

John S. Pistole,

Administrator.

[FR Doc. 2012–14426 Filed 6–12–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 070719377–2189–01]

RIN 0648–AV81

Confidentiality of Information; Magnuson-Stevens Fishery Conservation and Management Reauthorization Act

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

ACTION: Proposed rule, extension of public comment period.

SUMMARY: The National Marine Fisheries Service (NMFS) is extending

the date by which public comments are due concerning proposed regulations to revise existing regulations governing the confidentiality of information submitted in compliance with any requirement or regulation under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA). NMFS published the proposed rule on May 23, 2012 and announced that the public comment period would end on June 22, 2012. With this notice, NMFS is extending the comment period to August 21, 2012.

DATES: The deadline for receipt of comments on the proposed rule published on May 23, 2012 (77 FR 30486), is extended to August 21, 2012.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2012–0030, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0030 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* Submit written comments to Karl Moline, NMFS, Fisheries Statistics Division F/ST1, Room 12441, 1315 East West Highway, Silver Spring, MD 20910.
- *Fax:* (301) 713–1875; Attn: Karl Moline

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will 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 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.

FOR FURTHER INFORMATION CONTACT: Karl Moline at 301–427–8225.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2012, NMFS published a proposed rule at 77 FR 30486 that would revise existing regulations on the handling of information required to be maintained as confidential under the Magnuson-Stevens Act. The purposes of the proposed rule is to make both substantive and non-substantive changes necessary to comply with the MSA as amended by the 2006 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) and the 1996 Sustainable Fisheries Act (SFA). In addition, the rule proposes to address some significant issues that concern NMFS' application of the MSA confidentiality provision to requests for information.

NMFS received several requests from fishery management councils and representatives of fishing and environmental organizations to extend the comment period on the proposed rule in order to allow the councils and other organizations to review the proposed rule and solicit feedback from their members. We have considered these requests and conclude that a 60-day extension is appropriate.

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

Dated: June 7, 2012.

Alan D. Risenhoover,

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

[FR Doc. 2012–14460 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 114
Wednesday, June 13, 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

June 7, 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), *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.

Agricultural Research Service

Title: Information Collection for Document Delivery Services.

OMB Control Number: 0518–0027.

Summary of Collection: The National Agricultural Library (NAL) accepts requests from libraries and other organizations in accordance with the national and international interlibrary loan code and guidelines. In its national role, NAL collects and supplies copies or loans of agricultural materials not found elsewhere. 7 U.S.C. 3125a and 7 CFR part 505 gives NAL the authority to collect this information. NAL provides photocopies and loans of materials directly to USDA staff, other Federal agencies, libraries and other institutions, and indirectly to the public through their libraries. The Library charges for some of these activities through a fee schedule. In order to fill a request for reproduction or loan of items the library must have the name, mailing address, phone number of the respondent initiating the request, and may require either a fax number, email address, or Ariel IP address. The collected information is used to deliver the material to the respondent, bill for and track payment of applicable fees, monitor the return to NAL of loaned material, identify and locate the requested material in NAL collections, and determine whether the respondent consents to the fees charged by NAL.

Need and Use of the Information: The NAL document delivery staff uses the information collected to identify the protocol for processing the request. The information collected determines whether the respondent is charged or exempt from any charges and what process the recipient uses to make payment if the request is chargeable. The staff also uses the information provided to process/package the reproduction or loan for delivery. Without the requested information NAL has no way to locate and deliver the loan or reproduction to the respondent, and thus cannot meet its mandate to supply agricultural material.

Description of Respondents: Federal Government; Not-for-profit institutions; State, Local or Tribal Government; Business or other for-profit.

Number of Respondents: 1,350.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 203.

Agricultural Research Service

Title: Meeting the Information Requirements of the Animal Welfare Act Workshop Registration Form.

OMB Control Number: 0518–0033.

Summary of Collection: The U.S. Department of Agriculture, National Agricultural Library (NAL), Animal Welfare Information Center conducts a workshop titled ''Meeting the Information Requirements of the Animal Welfare Act.'' The registration form collects information from interested parties necessary to register them for the workshop. The information includes: workshop data preferences, signature, name, title, organization name, mailing address, phone and fax numbers and email address. The information will be collected using online and printed versions of the form. Also forms can be fax or mailed.

Need and Use of the Information: NAL will collect information to register participants, contact them regarding schedule changes, control the number of participants due to limited resources and training space, and compile and customize class materials to meet the needs of the participants. Failure to collect the information would prohibit the delivery of the workshop and significantly inhibit NAL's ability to provide up-to-date information on the requirements of the Animal Welfare Act.

Description of Respondents: Not-for-Profit Institutions; Business or Other for-profit; Government; State, Local, or Tribal Government.

Number of Respondents: 19.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–14367 Filed 6–12–12; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Mohammad Reza Vaghari, a/k/a Mitch Vaghari, currently incarcerated at: Inmate Number: 63541–066, CI

Moshannon Valley, Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866, and with an address at: 116 Moore Road, Downington, PA 19335–1831, *Respondent;* Saamen Company, LLC, 3405 West Chester Pike Ste B105, Newtown Square, PA 19073–4250, *Related Person.*

Order Denying Export Privileges

A. Denial of Export Privileges of Mohammad Reza Vaghari

On June 3, 2011, in the U.S. District Court, Eastern District of Pennsylvania, Mohammad Reza Vaghari, a/k/a Mitch Vaghari (''Vaghari'') was convicted of crimes relating to his participation in illegal business transactions with Iran between 2005 and 2008. Specifically, Vaghari was convicted of two counts of violating the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)) (''IEEPA'') by willfully and knowingly aiding and abetting in the illegal export of ultrasonic liquid processors, stimulus isolators and laboratory equipment to Iran via the United Arab Emirates without obtaining the required Office of Foreign Assets Control approval.

Vaghari was also convicted of one count of conspiracy to violate IEEPA (18 U.S.C. 371) and one count of naturalization fraud stemming from his attempt to procure U.S. citizenship (18 U.S.C. 1425). Vaghari was sentenced to 33 months in prison followed by three years supervised release and a special assessment of $400.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Vaghari's conviction for violating the IEEPA, and have provided notice and an opportunity for Vaghari to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Vaghari. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Vaghari's export privileges under the Regulations for a period of 10 years from the date of Vaghari's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Vaghari had an interest at the time of his conviction.

B. Denial of Export Privileges of Related Person

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may take action to name persons related to a Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of a denial order. Because Vaghari is the president of Saamen Company LLC (''Saamen''), Saamen is related to Vaghari by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. BIS believes that naming Saamen as a related person to Vaghari is necessary to avoid evasion of the denial order against Vaghari.

As provided in Section 766.23 of the Regulations, I gave notice to Saamen that its export privileges under the Regulations could be denied for up to 10 years due to its relationship with Vaghari and that BIS believes naming it as a person related to Vaghari would be necessary to prevent evasion of a denial order imposed against Vaghari. In providing such notice, I gave Saamen an opportunity to oppose its addition to the Vaghari Denial Order as a related party. Having received no submission, I have decided, following consultations with BIS's Office of Export Enforcement, including its Director, to name Saamen as a Related Person to the Vaghari Denial Order, thereby denying its export privileges for 10 years from the date of Vaghari's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Person had an interest at the time of Vaghari's conviction. The 10-year denial period will end on June 3, 2021.

Accordingly, it is hereby ordered

I. Until June 3, 2021 Mohammad Reza Vaghari, a/k/a Mitch Vaghari with last known addresses at: Currently incarcerated at: Inmate Number: 63541–066, CI Moshannon Valley, Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866 and 116 Moore Road, Downington, PA 19335–1831, and when acting for or on behalf of Vaghari, his representatives, assigns, agents or employees (collectively referred to hereinafter as the ''Denied Person''), and the following person related to the Denied Person as defined by Section 766.23 of the Regulations: Saamen Company LLC, with a last known address at: 3405 West Chester Pike Ste B105, Newtown Square, PA 19073–4250, and when acting for or on behalf of Saamen, its successors or assigns, agents, or employees (''the Related Person'') (together, the Denied Person and the Related Person are ''Persons Subject to this Order''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2012). The Regulations issued pursuant to the EAA (50 U.S.C. app. §§ 2401–2420 (2000)). Since August 21, 2001, the Export Administration Act (''EAA'') has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (765 FR 50661, August 16, 2011), has continued the Regulations in effect under IEEPA.

A. Export or reexport to or on behalf of the Persons Subject to this Order any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Persons Subject to this Order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Persons Subject to this Order acquire or attempt to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Persons Subject to this Order of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Persons Subject to this Order in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Persons Subject to this Order, or service any item, of whatever origin, that is owned, possessed or controlled by the Persons Subject to this Order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. In addition to the Related Person named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until June 3, 2021.

VI. In accordance with Part 756 of the Regulations, Vaghari may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. In accordance with Part 756 of the Regulations, the Related Person may also file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VIII. A copy of this Order shall be delivered to the Denied Person and the Related Person. This Order shall be published in the **Federal Register**.

Issued this 6th day of June, 2012.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2012–14424 Filed 6–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Biotech Life Sciences Trade Mission to Australia

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS) is organizing a Biotech Life Sciences trade mission to Australia, October 29–November 2, 2012. The mission to Australia is intended to include representatives from a variety of U.S. biotechnology and life science firms. The goals of the trade mission to Australia are to (1) increase U.S. exports to Australia, (2) introduce U.S. participants to potential strategic partners, (3) introduce U.S. participants to industry and government officials in Australia to learn about various opportunities, and (4) to educate the participants about trade policy and regulatory matters involved in doing business in Australia. Participating in an official U.S. industry delegation, rather than traveling to Australia independently, will increase the participants' profile and enhance the ability to secure meetings in Australia. The mission will include site visit(s) to prominent biotech organizations, government meetings, and briefings and receptions during the AusBiotech National Conference in Melbourne, Australia. Trade mission participants will have the opportunity to interact with CS staff to discuss industry developments, opportunities, and sales strategies.

Commercial Setting

U.S. biotech and life science firms consider Australia a harbor, with strong intellectual property rights protection and enforcement, and a transitional market that is strategically positioned to serve as a gateway to Asian markets. Australia is the leading biotechnology hub of the Asia-Pacific, with over 1,000 biotechnology companies, and clinical trials that meet the requirements under EU and FDA regulations. The Australian biotechnology sector covers human therapeutics, industrial applications, the agriculture sector, food technology, medical devices and diagnostics, and clean tech. Australia's consumer base and impressive economic strength further reinforce the importance of the market for U.S. firms.

Australia's US$11.39 billion pharmaceutical market is among the five largest in the Asia-Pacific region. Australia also has the region's second highest annual spending on medicine, after Japan. Much of this spending is on patented drugs, which account for 67% of the total pharmaceutical expenditure. Australia remains attractive to pharmaceutical firms—per-capita healthcare spending is high (US$5,077) and the regulatory regime is comparable to those in other developed countries. According to UN Comtrade, Australia imported finished medicine worth US$7.1 billion in 2010. Additionally, the current U.S. dollar-Australian dollar exchange rate is advantageous for U.S. product and services exports to Australia.

The AusBiotech National Conference is a venue that attracts not only biotech companies in the medical sector, but also in the diagnostics, agriculture, industrial and environmental biotech segments. The annual event has earned a reputation as the industry's premier biotechnology conference for the Asia Pacific region and has proved its relevance to the Australian and international biotechnology industries, attracting more than 1,100 participants including 233 international participants from 20 countries. This program presents an opportunity for the entire gamut of U.S. biotech companies looking to sell into Australia and spring board into Asia.

A U.S. Department of Commerce-led trade mission offers an attractive entrée for U.S. firms in the Australian market.

Mission Goals

The goals of the trade mission to Australia are to (1) increase U.S. exports

to Australia, (2) introduce U.S. participants to potential strategic partners, (3) introduce U.S. participants to industry and government officials in Australia to learn about various opportunities, and (4) to educate the participants about trade policy and regulatory matters involved in doing business in Australia.

Mission Scenario

In Melbourne, the U.S. mission members will be briefed by International Trade Administration CS staff, and other key U.S. government officials. Senior American Consulate officials will host a networking event for the group with Australian biotech and life science industry organizations and multipliers. During the mission, U.S. participants will benefit from attending the AusBiotech National Conference, customized one-on-one matchmaking with potential partners using the biopartnering.com platform, an efficient and easy to use personalized intelligent scheduling internet platform that facilitates scheduling appointments to connect with key people. And, receive a market briefing by the International Trade Administration Commercial Specialist for the biotech life science sector at the American Consulate, and networking activities. A site visit to Australia's top biotech company and/or leading research institution will be offered.

Participation in the mission will include the following:

- Pre-travel briefings/webinar on the Australian market and doing business in Australia;
- Pre-scheduled meetings with potential partners in Australia via the biopartnering.com platform;
- Transportation to a site visit to Australia's top biotech company and/or leading research institution;
- Meetings with Australian government officials;
- Participation in AusBiotech National Conference;
- Participation in the U.S. Pavilion at the BioIndustry Exhibition at AusBiotech;
- Participation in industry networking events in Melbourne;
- Meetings with International Trade Administration CS Australia's life science industry specialist.

Proposed Timetable

Mission participants will be encouraged to arrive October 28 or 29, 2012 and the mission program will proceed from October 29 through November 2, 2012.

October 29	Melbourne Arrive Melbourne. Day at leisure. Early evening no-host group dinner
October 30	Melbourne. Australia market breakfast briefing. Site visit. Networking luncheon and Australian biotechnology briefing. Evening reception.
October 31	Melbourne AusBiotech National Conference 2012.[1] BioPartnering business matchmaking appointments. Conference evening welcome reception.
November 1	Melbourne AusBiotech National Conference 2012 BioPartnering business matchmaking appointments. Conference evening dinner.
November 2	Melbourne AusBiotech National Conference 2012. BioPartnering business matchmaking appointments. Conference Closing Reception.

[1] AusBiotech National Conference fee and conference evening dinner on November 1 are included in the mission participation fee.

Participation Requirements

All parties interested in participating in the Biotech Life Sciences Trade Mission to Australia 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 best satisfy the selection criteria as outlined below. A minimum of 10 and a maximum of 12 participants will be selected for the mission from the applicant pool. U.S. companies already involved with and/or doing business in Australia as well as U.S. companies seeking exposure to the market for the first time are encouraged to apply.

Fees and Expenses

After a company or trade association has been selected to participate in the mission, a participation fee paid to the U.S. Department of Commerce is required. The participation fee for one company representative will be $4,504 for small or medium-sized enterprises (SME) [2] and $5,321 for large companies, which will cover one representative. The fee for each additional firm representative (large firm or SME/trade association) is $1,370.[3] The Commercial Service will assist in booking hotels at favorable rates, but lodging costs, meals and incidental expenses will be the responsibility of each mission participant.

[2] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations. 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.

[3] The mission participation fee includes the AusBiotech National Conference registration fee and conference evening dinner on November 1.

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, primary market objectives, and goals for participation. If the U.S. 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 association or trade organizations, the products and/or 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 Australia, including likelihood of exports resulting from the trade mission

• Consistency of the applicant's (or in the case of a trade association or trade organization, represented companies') goals and objectives with the stated scope of the trade mission

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**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions/*) and other Internet web sites, press releases to general and trade media, direct mail, 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 close on July 15, 2012. Selection decisions will be made on a rolling basis until 10–12 participants are selected. Although applications will be accepted through July 15, 2012, interested U.S. firms and trade associations are encouraged to submit their applications as soon as possible. We will inform applicants of selection decisions as the decisions are made. Applications received after July 15, 2012 will be considered only if space and scheduling constraints permit.

Contacts

U.S. Commercial Service Domestic Contact

Aileen Nandi, Senior Commercial Officer, San Jose U.S. Export Assistance Center, 408–535–2757, ext. 102, *Aileen.Nandi@trade.gov.*

Gabriela Zelaya, International Trade Specialist, San Jose U.S. Export Assistance Center, 408–535–2757, ext. 107, *Gabriela.Zelaya@trade.gov.*

U.S. Commercial Service Australia Contacts

Joe Kaesshaefer, Senior Commercial Officer, American Consulate General—Sydney, Tel: +61–2–9373–9201, *Joe.Kaesshaefer@trade.gov.*

Monique Roos, Commercial Specialist, American Consulate General—Sydney, Tel: +61–2–9373–9210, *Monique.Roos@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2012–14452 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 120216141–2141–01]

RIN 0625–XA17

User Fee Schedule for Trade Promotion Services

AGENCY: U.S. & Foreign Commercial Service, International Trade Administration, Department of Commerce.

ACTION: Notice and request for comment.

SUMMARY: The U.S. & Foreign Commercial Service (US&FCS) within the International Trade Administration (ITA) publishes this notice to announce its intent to adjust user fees in light of an independent cost of service study finding, which concluded that the US&FCS is not fully covering its costs for providing trade promotion services under the current fee structure. ITA provides a wide range of trade promotion information and services to U.S. businesses that are exporting or seeking to export. The services considered here are a subset of ITA activities that involve relatively more intensive time engagements with particular client firms; ITA will continue to provide its core information and services without charge. The primary objective of the adjustment to the User Fee Schedule is to ensure that the fees for the more intensive services reflect, to the extent possible, the actual costs incurred by the United States for providing these more intensive trade promotion services. The fee revenue is expected to continue to contribute to ITA's capabilities for assisting U.S. businesses in accessing export markets.

In addition, in revising the user fees, the US&FCS proposes to revise the small & medium-sized enterprises (SME) hourly rate discount as well as the SME incentive program piloted in 2008. The US&FCS has historically offered a discount to SME's, defined as those which employ 500 or less persons. Under the User Fee Schedule proposed in this notice, US&FCS will offer a discount of 50 percent per hour to SMEs.

The purpose of this notice is to align user fees and authorized activities with actual program costs; and improve our ability to properly recover direct and indirect costs associated with service delivery.

DATES: We will consider all comments that we receive on or before 60 days after publication in the **Federal Register**.

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

Federal eRulemaking Portal: www.Regulations.gov.

Postal Mail/Commercial Delivery: Docket No. ITA–2012–0001 U.S. & Foreign Commercial Service, Office of Strategic Planning & Resource Management, 1400 Constitution Avenue NW., Rm. C125, Washington, DC 20235.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;* D ITA–2012–0001.

SUPPLEMENTARY INFORMATION:

Background

The statutory mission of US&FCS is to ''place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad * * * through activities that include assisting United States exporters.'' 15 U.S.C. 4721(b). The statute further defines the term ''United States exporter'' at 15 U.S.C. 4721(j) as a U.S. citizen, U.S. corporation, or foreign corporation that is more than 95% U.S.-owned that ''exports or seeks to export, goods or services produced in the United States.'' User fees may be collected from U.S. exporters that meet the Service Eligibility Policy issued in FY 2011.

The Office of Management and Budget (OMB) Circular A–25 encourages the

full recovery of costs through user fees for an appropriate share of goods and services provided to recipients of benefits beyond those accruing to the general public. Specifically, section 6 of Circular A–25 states that ''when a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price).'' A ''user fee'' is the amount paid by a recipient of a special benefit beyond those benefits accruing to the general public. A ''special benefit'' may accrue and a user fee be imposed when a government service: (a) Enables the beneficiary to obtain more immediate or substantial gains or values than those that accrue to the general public; (b) is performed at the request or for the convenience of the recipient, and is beyond the services regularly received by members of the same industry or group or by the general public; or (c) provides business stability or contributes to public confidence in the business activity of the beneficiary.

The direct or indirect cost of a service provided by the Federal Government includes, but is not limited to, the following:

- Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular A–11.
- Physical overhead, consulting, or other indirect costs including material and supply costs, utilities, insurance travel, and rents or imputed rents on land, buildings, and equipment.
- The management and supervisory costs.
- The costs of enforcement, collection, research, establishment of standards, and regulation, including any environmental impact statements.

User Fee Schedule

The US&FCS offers Trade Promotion Services to U.S. businesses that consist of Standard Services and Customized Services. For each of these services, the US&FCS collects fees according to the User Fee Schedule that is made available on its Web site and agency publications. The ''Standard Services'' listed in the User Fee Schedule are services that are performed in the same manner by all US&FCS field units. Other ''Customized Services,'' not shown in the chart below, entail substantive variation of the scope of work.

The US&FCS proposes to modify the user fees for both Standard Services and Customized Services. The Standard Services described below will no longer be assigned a standard global price. The proposed new User Fee Schedule provided below lists each standard service and the estimated number of hours for completion of service delivery. To determine the fee for any service, a flat hourly rate of $55.33 is multiplied by the estimated workload hours. Direct costs, such as transportation or an interpreter, will be discussed with the client and assessed in addition to the user fee. For Customized Services, the estimated workload hours will vary but the user fee will be calculated based on the flat rate of $55.33 per hour.

The Standard Services that will be assessed under the new fees are described below.

1. *Business Service Provider* is a program where the US&FCS offers both U.S. and non-U.S. professional service providers the opportunity to introduce their services to U.S. exporters via the web. This service helps U.S. or foreign firms promote services which facilitate export transactions, such as market assessments, financing, accounting or legal services. The duration of the web promotional message is one year.

2. *Featured U.S. Exporter* is a service where the US&FCS provides a virtual directory of U.S. products featured on USFCS Web sites around the world. It enables U.S. exporters an opportunity to target specific markets in the local language of business. The duration of the advertisement is one year.

3. *Gold Key Service* is a service where the US&FCS arranges meetings in foreign markets to match U.S. exporters with prospective sales agents or distributors, manufacturers, licensees, franchisees or strategic partners. The U.S. exporter identifies the type of firm it desires US&FCS to identify, screen, and evaluate according to criteria established by the U.S. exporter. The number of firms to be identified is determined by the client. A market briefing is provided.

4. *International Company Profile* is a service where the US&FCS provides a research report on a prospective business partner's commercial viability and financial circumstances, which includes topics such as business registration, credit rating, profit and loss data, pending litigation, reputation, and US&FCS opinion about the firm and export prospects.

5. *International Partner Service* is a service where the US&FCS provides a report concerning prospective sales agents or distributors, manufacturers, licensees, franchisees or strategic partners. The U.S. exporter identifies the type of firm it desires US&FCS to identify, screen, and evaluate according to criteria established by the U.S. exporter. The number of firms to be identified is determined by the client.

6. *Quicktake* is a service where the US&FCS assists U.S. exporters to quickly determine which among more than 30 European markets offer the best export opportunities for a specific product or service and provides direction on how to enter those markets.

Pricing Discounts

The US&FCS currently offers various discounts to SMEs. For all SMEs, the hourly rate is discounted 65 percent. In addition, the SME Incentive Program offers new-to-exporting firms a 50 percent discount from the full rate on the first Gold Key service, International Company Profile service or International Partner Search service, provided the firm meets the following criteria: (1) The firm's products are eligible for US&FCS fee-based assistance; (2) the firm has not exported in the prior 24 months; and (3) the firm has not previously received assistance from US&FCS. Other discounts involving bundling or bulk service orders were also offered in the past.

Under this notice, US&FCS proposes to eliminate the SME incentive program. A SME discount of 50 percent per hour will be offered as an exception to the OMB full cost recovery guidance, resulting in a hourly rate of $27.66 for all SMEs.

Full cost rates and SME discount rates are provided on the next page so that the public can comment upon the implications of full and SME rates.

PROPOSED USER FEE SCHEDULE

Standard service	Average service delivery hours	Proposed fee for average workload		Current fee schedule		Dollar change in pricing		Percentage change in pricing	
		Full	SME	Full	SME	Full	SME	Full	SME
Business Service Provider	12	664	332	600	300	64	32	11	11
Featured U.S. Exporter	6	332	166	300	150	32	16	11	11
Gold Key Service	64	3,541	1,771	2,300	700	1,241	1,071	54	153
International Company Profile	23	1,273	636	900	600	373	36	41	6
International Partner Search	49	2,711	1,356	1,400	500	1,311	856	94	171
Quicktake	15	830	830	750	750	80	80	11	11

Determining the Cost of Performing Each Service

The cost of service methodology developed by US&FCS was designed to bring the organization closer to full cost recovery guidance set forth in OMB Circular A–25. To set prices that are ''self sustaining,'' the US&FCS had to determine the true cost of providing various trade promotion services.

Federal Accounting Standards permit US&FCS to use an activity-based costing model to determine the true cost of services listed in the proposed User Fee Schedule. The activities were defined in accordance with the US&FCS list of eleven (11) services offered by US&FCS, including both standard (6) and customized (5) services.

As part of the cost of service study, the US&FCS conducted a workload survey to obtain a more accurate estimate of the true cost for delivery of specific services. The workload survey was designed and distributed to all US&FCS international and domestic field units. An operational audit technique was used for this workload survey. The operational data is based on level of effort exerted by a cross-section of staff members who are subject matter experts and practitioners. The independent contractor commissioned for the cost of service study reviewed the workflow process for delivery of standard and customized services, breaking out the discrete steps of each activity to obtain the estimated time to complete each step, then combined the step workload to determine the total workload estimate per service. The data submitted by various US&FCS field units was then aggregated to determine the global average of workload for each standard or customized service.

The proposed global average hourly rate of $55.33 was based on actual staffing data and payroll for staff specifically engaged in the delivery of trade promotion services, rather than data aggregated from US&FCS staff as a whole. This resulted in a weighted average hourly rate that did not include overhead, benefits and other burdening factors. (These burdening factors were later added to produce the burdened hourly rate of $55.33.) Using FY2010 ITA budget data, fringe benefits and non-labor related costs (e.g. materials, supplies, rent, utilities, equipment) were prorated to determine the burdening rate that was to be added to the hourly rate. This resulted in an hourly rate that accounts for all applicable labor and non-labor costs specifically related to the delivery of services, which is consistent with federal accounting standards.

Conclusion

Based on the information provided above, the US&FCS believes its proposed fees are consistent with the objective of OMB Circular A–25 to ''promote efficient allocation of the nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as the cost to the U.S. Government of providing the special benefits * * *'' OMB Circular A–25(5)(b).

FOR FURTHER INFORMATION CONTACT: Ms. Erin Sullivan, U.S. & Foreign Commercial Service, Office of Strategic Planning & Resource Management, 1400 Constitution Avenue NW., Rm. C125, Washington, DC 20235, Phone: (202) 482–1539.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2012–14472 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC051

Atlantic Highly Migratory Species; Commercial Atlantic Region Non-Sandbar Large Coastal Shark Fishery Opening Date

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

ACTION: Notice; fishery opening date.

SUMMARY: NMFS is announcing the opening date of the commercial Atlantic region non-sandbar large coastal shark fishery. This action is necessary to inform fishermen and dealers about the fishery opening date.

DATES: The commercial Atlantic region non-sandbar large coastal shark fishery will open on July 15, 2012.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Guy DuBeck, 301–427–8503; fax 301–713–1917.

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

On January 24, 2012 (77 FR 3393), the National Marine Fisheries Service (NMFS) published a final rule that established quota levels and opening dates for the 2012 Atlantic commercial shark fisheries. In the final rule, we stated that the 2012 Atlantic non-sandbar large coastal shark (LCS) fishery would open on either the effective date of the final rule implementing the Atlantic HMS electronic dealer

reporting system (76 FR 37750; June 28, 2011) or July 15, 2012, whichever occurs first. We are still working on integrating the Atlantic HMS electronic dealer reporting system with other existing and new electronic programs in the Northeast and Southeast regions. Once the electronic dealer system is available, we will conduct training workshops and webinars to introduce and train dealers how to use the new system before implementation. Thus, we do not expect the system to be in place before July 15, and will open the commercial Atlantic region non-sandbar LCS fishery on July 15, 2012.

All of the shark fisheries will remain open until December 31, 2012, unless we determine that the fishing season landings have reached, or are projected to reach, 80 percent of the available quota. At that time, consistent with § 635.27(b)(1), we will file for publication with the Office of the Federal Register a closure action for that shark species group and/or region that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until we announce, via a **Federal Register** action that additional quota, if any, is available, the fishery for the shark species group and, for non-sandbar LCS, region will remain closed, even across fishing years, consistent with § 635.28(b)(2).

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

Dated: June 8, 2012.

Carrie D. Selberg,

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

[FR Doc. 2012–14458 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA897

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Gulf of Mexico and South Atlantic Spanish Mackerel (*Scomberomorus maculatus*) and Cobia (*Rachycentron canadum*)

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

ACTION: Notice.

SUMMARY: Four Assessment Workshops via webinars are being added to SEDAR 28. The webinars will be held July 10, 2012, July 24, 2012, August 9, 2012, and August 30, 2012. All webinars will begin at 1 p.m. (Eastern) and are expected to last four hours. The SEDAR 28 Review Workshop was originally scheduled for August 6–10, 2012 and will now be held October 29–November 2, 2012. This is the twenty-eighth SEDAR. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 28 Assessment Workshops via webinar will be held July 10, 2012, July 24, 2012, August 9, 2012, and August 30, 2012. The SEDAR 28 Review Workshop will take place October 29–November 2, 2012. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The SEDAR 28 Review Workshop will be held at the DoubleTree Atlanta-Buckhead, 3342 Peachtree Rd., Atlanta, GA 30326, telephone: (404) 231–1234. The Assessment Workshop webinars will be held via online webinar. The webinars and Review workshop are open to members of the public. Those interested in participating in the webinars should contact Kari Fenske and Ryan Rindone at SEDAR (*see* **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

FOR FURTHER INFORMATION CONTACT: Kari Fenske, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; email: *kari.fenske@safmc.net;* or Ryan Rindone, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (704) 564–2046; email: *ryan.rindone@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The original notice for the SEDAR 28 Review Workshop was published in the **Federal Register** on December 28, 2011 (76 FR 81479). This notice changes the date of that workshop and adds additional workshops for SEDAR 28.

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have 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 includes three workshops: (1) Data Workshop, (2) Stock Assessment Workshop 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 Stock Assessment Workshop 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 Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Panelists for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. SEDAR participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 28 Assessment Workshops via Webinar Schedule (all times Eastern):

July 10, 2012: 1 p.m.–5 p.m.; July 24, 2012: 1 p.m.–5 p.m.; August 9, 2012: 1 p.m.–5 p.m.; August 30, 2012: 1 p.m.–5 p.m.

The established time may be adjusted as necessary to accommodate the timely completion of discussion relevant to the data workshop process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

Revised SEDAR 28 Review Workshop Schedule:

October 29–November 2, 2012; SEDAR 28 Review Workshop

October 29, 2012: 1 p.m.–8 p.m.; October 30, 2012: 8 a.m.–8 p.m.; October 31, 2012: 8 a.m.–8 p.m.; November 1, 2012: 8 a.m.–8 p.m.; November 2, 2012: 8 a.m.–1 p.m.

The Review Workshop is an independent peer review of the assessment developed during the Data and Assessment Workshops. Workshop Panelists will review the assessment and document their comments and recommendations in a Consensus Summary.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public

has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Dated: June 8, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–14408 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) VMS/Enforcement Committee and Advisory Panel will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, June 28, 2012 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, One Thurber Street, Warwick, RI 02886; telephone: (401) 734–9600; fax: (401) 734–9700.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The VMS/Enforcement Committee and Advisory Panel will make recommendations for NOAA enforcement priorities for 2013. They will provide an open session for public comments concerning Compliance and Effectiveness of Regulations for New England Fishery Management Plans (FMPs). The **Federal Register** for the proposed rule on Confidentiality of Information will be discussed. Other Business may also be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens 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 physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: June 8, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–14348 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Golden King Crab Price Formula Committee is holding a meeting at the North Pacific Fishery Management Council office, Room 205.

DATES: The meeting will be held on June 28, 2012 from 1 p.m. to 5 p.m. and June 29, 2012, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the North Pacific Fishery Management Council, 605 W 4th Avenue, Suite 306, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Mark Fina, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Committee is meeting concerning the arbitration system that is part of the Bering Sea and Aleutian Islands crab rationalization program. The Committee will give specific attention to the development of the price formula for golden king crab under the arbitration system. Additional information is posted on the Council Web site: *http://www.alaskafisheries.noaa.gov/npfmc/*

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

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: June 8, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–14349 Filed 6–12–12; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of proposed Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (''CFPB'' or the ''Bureau''), gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than July 13, 2012. The new system of records will be effective July 23, 2012 unless the comments received result in a contrary determination.

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

- *Electronic: privacy@cfpb.gov.*
- *Mail or Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Comments will be available for public inspection and copying at 1700 G Street

NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435–7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Act''), Public Law 111–203, Title X, established the CFPB. The CFPB administers, enforces, and implements federal consumer financial law, and, among other powers, has authority to protect consumers from unfair, deceptive, and abusive practices when obtaining consumer financial products or services.

Pursuant to Section 1100 of Title X of the Act, authority for the creation and maintenance of a national registration system for residential mortgage loan originators (''MLOs''), as required by Section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act, 12 U.S.C 5106 (the ''S.A.F.E. Act''), was transferred to the Bureau by an amendment to the S.A.F.E. Act.

This national registration system, known as the Nationwide Mortgage Licensing System and Registry (''NMLSR'' or the ''Federal Registry''), allows MLOs employed by federal agency regulated institutions to register and submit required information about themselves and their backgrounds as required under Section 1507 of the S.A.F.E. Act, 12 U.S.C. 5106, or its implementing regulation, 12 CFR 1007. More information about this system is available at *http://mortgage.nationwidelicensingsystem.org/.*

Information in the NMLSR is available to the Bureau, the Federal banking agencies (as defined in Section 1503 of the S.A.F.E. Act, 12 U.S.C. 5102(2)), and the Farm Credit Administration (''FCA''). An agency may retrieve non-public registration information only with respect to employees of the institutions subject to that agency's respective authority.

While the NMLSR also contains information required by individual states relating to the licensing of individuals who are MLOs practicing in their states, the CFPB does not claim ownership for those records, nor does this notice cover such records.

To ensure full compliance with the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the CFPB is providing notice of the transfer of authority for S.A.F.E. Act activities, including the regulations that require MLOs to register through the NMLSR, the existence and character of records maintained by the system, and the procedures by which such records may be accessed and amended by individuals as allowed under the Privacy Act and the Freedom of Information Act. The CFPB will maintain the records covered by this notice.

The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the S.A.F.E. Act and transferred responsibility for this system of records from the Federal banking agencies and the FCA to the Bureau. Those agencies that previously published notices establishing this system of records will revoke them upon this notice becoming effective, and this notice will serve as the sole notice for this system of records.

The report of a new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled, ''CFPB.019—Nationwide Mortgage Licensing System and Registry'' is published in its entirety below.

Dated: June 8, 2012.

Claire Stapleton,

Chief Privacy Officer, Bureau of Consumer Financial Protection.

CFPB.019

SYSTEM NAME:

Nationwide Mortgage Licensing System and Registry.

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

State Regulatory Registry LLC, 1129 20th Street NW., Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include MLOs that are required to be registered under Section 1507 of the S.A.F.E. Act, 12 U.S.C. 5106, or its implementing regulation, 12 CFR 1007.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain identifying information about MLOs including: Names and former or other names used; Social Security numbers; genders; dates and places of birth; home and business contact information; employment dates; criminal histories, including the results of criminal background checks; financial services-related employment histories; civil, criminal, regulatory, and enforcement actions taken against MLOs in connection with their employment in the financial services industry; state license(s) held, status and license numbers, including license revocations and suspensions; fingerprint data; and unique identifiers assigned to NMLSR registrants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), Public Law 110–289, Division A, Title V, Sections 1501–1517, 122 Stat. 2654, 2810–2824 (July 30, 2008), codified at 12 U.S.C. 5106; The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, Title X, Section 1100 (5), codified at 12 U.S.C. 5106.

PURPOSE(S):

The system allows for the registration of MLOs employed by federal agency regulated institutions in a national registry, as required by the S.A.F.E. Act. The information is maintained to support federal regulatory oversight while providing the public with access to certain information concerning MLOs employed by institutions regulated by the Federal banking agencies or the FCA, including names and employment histories of those MLOs.

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

These records may be disclosed, consistent with the CFPB Disclosure of Records and Information Rules, promulgated at 12 CFR part 1070 *et seq.,* to:

(1) Appropriate agencies, entities, and persons when: (a) the CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems

or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(2) Another federal or state agency to: (a) Permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency; or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(3) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

(6) The U.S. Department of Justice (''DOJ'') for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and in the case of a proceeding, such proceeding names as a party in interest:

(a) The CFPB;

(b) Any employee of the CFPB in his or her official capacity;

(c) Any employee of the CFPB in his or her individual capacity where DOJ or the CFPB has agreed to represent the employee; or

(d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;

(7) A grand jury pursuant either to a federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;

(8) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(9) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses in the course of investigations, to the extent necessary to secure information relevant to the investigation;

(10) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license;

(11) To institutions employing MLOs that are required to be federally registered under Section 1507 of the S.A.F.E. Act, 12 U.S.C. 5106, for use in registering employees as mortgage loan originators or renewing employee registrations;

(12) To the public when the information relates to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, MLOs that is included in the NMLSR for access by the public in accordance with Section 1507 of the S.A.F.E. Act, 12 U.S.C. 5106; and

(13) To the Federal Banking Agencies, as defined in section 1503 of the S.A.F.E. Act, 12 U.S.C. 5102(2), and the FCA, to carry out their oversight responsibilities for MLOs employed by entities subject to their respective authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in this system are stored electronically and in file folders. Paper copies of individual records are made by authorized CFPB staff.

RETRIEVABILITY:

Records are retrievable by a variety of fields including, but not limited to: an individual MLO's name or unique identification number; by the financial institution's name or unique NMLS identification number; or by some combination thereof.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

The CFPB will maintain computer and paper records indefinitely until the National Archives and Records Administration approves the CFPB's records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Assistant Director, Supervision, 1700 G Street NW., Washington, DC 20552.

State Regulatory Registry LLC 1129 20th Street NW., Washington, DC 20036.

NOTIFICATION PROCEDURE:

Records created by a MLO or by a MLO's bank or bank subsidiary employer, or FCA institution or institution subsidiary employer, in the NMLSR may be accessed or amended directly by the MLO about whom the record pertains. If assistance is required to access, contest or amend such a record, individuals may contact the NMLS Call Center at (240) 386–4444, or may inquire in writing in accordance with instructions appearing in Title 12, Chapter 10 of the CFR, ''Disclosure of Records and Information.'' Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from MLOs who submit information to the registry and the results of Federal Bureau of Investigation (FBI) background checks.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–14383 Filed 6–12–12; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–23]

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 12–23 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 8, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–C

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JUN 1 2012

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. 12-23, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $325 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. Sensitivity of Technology

BILLING CODE 5001–06–P

Transmittal No. 12–23

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:* Republic of Korea.

(ii) *Total Estimated Value:*
Major Defense Equipment* $250 million
Other $ 75 million
TOTAL $325 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* (367) CBU–105D/B Wind Corrected Munition Dispenser (WCMD) Sensor Fuzed Weapons (SFW), (28) Captive Air Training Missiles (CATM), (7) Dummy Air Training Missiles (DATM), and (18) spare tails kits for maintenance float, support equipment, containers, spare and repair parts, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support.

(iv) *Military Department:* USAF (QEJ)

(v) *Prior Related Cases, if any:* FMS case QBR—$4M—21Apr09

(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:* See attached Annex

(viii) *Date Report Delivered to Congress:* 1 June 2012

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Republic of Korea—CBU–105D/B Sensor Fuzed Weapons

The Government of Republic of Korea has requested a possible sale of (367) CBU–105D/B Wind Corrected Munition Dispenser (WCMD) Sensor Fuzed Weapons (SFW), (28) Captive Air Training Missiles (CATM), (7) Dummy Air Training Missiles (DATM), and (18) spare tails kits for maintenance float, communication equipment, electronic warfare systems, support equipment, spare engine containers, spare and repair parts, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support. The estimated cost is $325 million.

This proposed sale will contribute to the foreign policy goals and national security objectives of the United States by meeting the legitimate security and defense needs of an ally and partner nation. The Republic of Korea continues to be an important force for peace, political stability, and economic progress in North East Asia.

The Republic of Korea intends to use these CBU–105D/B Sensor Fuzed Weapons to modernize its armed forces and enhance its capability to defeat a wide range of enemy defenses including fortifications, armored vehicles, and maritime threats. Additionally, the munition's precision and low failure rate will reduce incidents of fratricide and increase overall effectiveness. The proposed sale will allow the Republic of Korea Air Force (ROKAF) to expand interoperability with U.S. and other regional coalition forces. The Republic of Korea will have no difficulty absorbing these munitions into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

Employment of the CBU–105D/B Sensor Fuzed Weapon will not result in more than one percent unexploded ordnance across the range of intended operational environments. The agreement applicable to the transfer of the CBU–105D/B and the CBU–105D/B integration test assets will contain a statement by the Government of the Republic of Korea that the cluster munitions and cluster munitions technology will be used only against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

The prime contractor will be Textron Systems Corporation of Wilmington, MA. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require annual trips to the Republic of Korea involving up to two U.S. Government and three contractor representatives for technical reviews/support, and program management for a period of approximately two years. There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–AW

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act (U)

Annex Item No. vii

(vii) *Sensitivity of Technology:*

1. The CBU–105D/BD/B Sensor Fuzed Weapon (SFW) is an advanced 1,000-pound class cluster bomb munition containing sensor fuzed sub-munitions that are designed to attack and defeat a wide range of moving or stationary land and maritime threats with minimal collateral damage. The SFW is currently the only combat proven, clean battle weapon that meets U.S. law regarding cluster munition safety standards. In addition to added safety, no other munition is as versatile and effective against so many different target types. Major components and technical data are classified up to Secret. Anti-tamper security measures are incorporated into the munition to prevent exploitation. The munition will be delivered in its Unclassified All-Up-Round configuration.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–14370 Filed 6–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–25]

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 12–25 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 8, 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

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

1 JUN 2012

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. 12-25, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Finland for defense articles and services estimated to cost $132 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,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 12–25

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:* Finland.

(ii) *Total Estimated Value:*

Major Defense Equipment *: $114 million
Other: $18 million
TOTAL: $132 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 70 M–39 Block 1A Army Tactical Missile System (ATACMS) T2K Unitary Missiles, Missile Common Test Device software, ATACMS Quality Assurance Team support, spare and repair parts, tools and test equipment, support equipment, personnel training and training equipment, publications and technical data, U.S. government and contractor engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (VAI).

(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:* See Annex Attached.

(viii) *Date Report Delivered to Congress:* 1 June 2012.

* As defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Finland—Army Tactical Missile Systems M–39 Block 1A

The Government of Finland has requested a possible sale of 70 M–39 Block 1A Army Tactical Missile System (ATACMS) T2K Unitary Missiles, Missile Common Test Device software, ATACMS Quality Assurance Team support, spare and repair parts, tools and test equipment, support equipment, personnel training and training equipment, publications and technical data, U.S. government and contractor engineering and logistics support services, and other related elements of logistics support. The estimated cost is $132 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 which has been, and continues to be, an important force for political stability and economic progress in Europe.

Finland intends to use these defense articles and services to expand its existing army architecture and improve its self-defense capabilities. This will contribute to the Finnish Defense Forces' goal of modernizing its capability while further enhancing interoperability between Finland, the United States, and other allies.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin Missiles and Fire Control in Dallas, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require up to two U.S. Government or contractor representatives to travel to Finland for up to one week for equipment de-processing/fielding, system checkout, and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Army Tactical Missile System (ATACMS) Block 1A T2K Unitary is a ground-launched surface-to-surface guided missile system with a unitary warhead. ATACMS are fired from the M270A1 Multiple Launch Rocket System and the High Mobility Artillery Rocket System launchers. The highest classification level for release of the ATACMS M–39 Block 1A is Secret. The highest level of classified information that could be disclosed by a sale or by testing of the end item is Secret. The Fire Direction System, Data Processing Unit, and special application software are Secret. The highest level that must be disclosed for production, maintenance, or training is Confidential. The Communications Distribution Unit software is Confidential. The system specifications and limitations are classified Confidential. The vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified up to Secret.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or could be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–14371 Filed 6–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board Notice of Meeting

AGENCY: Department of the Air Force, U.S. Air Force Scientific Advisory Board.

ACTION: Meeting Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force Scientific Advisory Board (SAB) meeting will take place 27–28 June 2012 at the Secretary of the Air Force Technical and Analytical Support Conference Center, 1550 Crystal Drive, Arlington, VA 22202. The meeting will be from 7:30 a.m.–4:40 p.m. on Wednesday, 27 June 2012, with the sessions from 7:30 a.m.–9:30 a.m. open to the public; and 7:30 a.m.–4:30 p.m. on Thursday, 28 June 2012, with the sessions from 7:30 a.m.–10:00 a.m. and 1:30 p.m.–2:00 p.m. open to the public. The banquet from 6:00 p.m.–8:45 p.m. on 28 June 2012 at the Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22201 will also be open to the public.

The purpose of this Air Force Scientific Advisory Board quarterly meeting is to discuss and deliberate the findings of the FY12 SAB studies covering non-traditional intelligence, surveillance, and reconnaissance in contested environments; ensuring cyber situational awareness for commanders; and extended uses of Air Force Space Command space-based sensors. The draft FY13 SAB study topic Terms of Reference and potential sites for the FY13 Spring Board quarterly meeting will also be discussed.

In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, The Administrative Assistant of the Air Force, in consultation with the Air Force General Counsel, has agreed that the public interest requires some sessions of the United States Air Force Scientific Advisory Board meeting be closed to the public because they will discuss information and matters covered by section 5 U.S.C. 552b(c)(1).

Any member of the public wishing to provide input to the United States Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR § 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the United States Air Force Scientific Advisory Board until its next meeting. The Designated Federal Officer will review all timely submissions with the United States Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the United States Air Force Scientific Advisory Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: The United States Air Force Scientific Advisory Board Executive Director and Designated Federal Officer, Lt Col Matthew E. Zuber, 240–612–5503, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews,

MD 20762,
matthew.zuber@pentagon.af.mil

Henry Williams Jr.,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2012–14043 Filed 6–12–12; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice is being issued under the authority of section 131a.of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation Between the United States of America and the Republic of Kazakhstan Concerning Peaceful Uses of Nuclear Energy.

DATES: This subsequent arrangement will take effect no sooner than June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Oehlbert, Office of Nonproliferation and International Security, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–3806 or email: *Sean.Oehlbert@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 6,672,212 g of U.S.-origin enriched uranium fuel fabrications scrap, containing 233,977 g of the isotope U–235 (less than five percent enrichment), from Nuclear Fuel Industries, Ltd. in Minato-Ku, Tokyo, Japan, to Ulba Metallurgical Plant in Ust-Kamengorsk, Kazakhstan. The material, which is currently located at Nuclear Fuels Industries, Ltd. in Japan, will be transferred to Ulba Metallurgical Plant for the purpose of recovering uranium from fuel fabrication scrap for return to Japan where it will be fabricated into fuel pellets to be used by Kansai Electric Power Co., in Osaka, Japan. The material was originally obtained by Nuclear Fuel Industries, Ltd. from nuclear fuel manufacturers in the United States pursuant to several Nuclear Regulatory Commission licenses.

In accordance with section 131a.of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning the retransfer of nuclear material of United States origin will not be inimical to the common defense and security.

Dated: May 21, 2012.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2012–14399 Filed 6–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Albany-Eugene Transmission Line Rebuild Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to implement the Proposed Action Alternative, based on the Albany-Eugene Transmission Line Rebuild Project (DOE/EIS–0457, March 2012). BPA has decided to rebuild a 32-mile section of the existing Albany-Eugene 115-kV transmission line that extends from the Albany Substation in the City of Albany in Linn County, Oregon, to the Alderwood Tap near Junction City in Lane County, Oregon. Rebuild activities will include removing and replacing existing wood-pole structures and associated structural components and conductors, establishing better access to the line, improving access roads, developing staging areas for storage of materials, removing vegetation including danger trees, and revegetating areas disturbed by construction activities. The existing structures will be replaced with structures of similar design within or near to their existing locations. The line will continue to operate at 115 kV.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, *www.efw.bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Douglas Corkran, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–622–4519; fax number 503–230–5699; or email *dfcorkran@bpa.gov.*

Issued in Portland, Oregon, on June 1, 2012

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 2012–14400 Filed 6–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Agency Information Collection Extension

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

ACTION: Submission for the Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) 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 Historic Preservation for Energy Efficiency Programs, OMB Control Number 1910–5155. The proposed collection will allow DOE to continue data collection on the status of Weatherization Assistance Program (WAP), State Energy Program (SEP) and Energy Efficiency and Conservation Block Grant (EECBG) Program activities to ensure that recipients are compliant with Section 106 of the National Historic Preservation Act (NHPA).

DATES: Comments regarding this collection must be received on or before July 13, 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 OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

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 Christine Platt Patrick, EE–2K, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Email: *Christine.Platt@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Christine Platt Patrick, EE–2K, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Email: *Christine.Platt@ee.doe.gov*.

Additional information and reporting guidance concerning the Historic Preservation reporting requirement for the WAP, SEP and EECBG are available for review at the following Web site: *http://www1.eere.energy.gov/wip/historic_preservation.html.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5155; (2) *Information Collection Request Title:* Historic Preservation for Energy Efficiency Programs; (3) *Type of Request:* Renewal; (4) *Purpose:* To collect data on the status of the WAP, SEP, and EECBG activities to ensure compliance with Section 106 of the NHPA; (5) *Annual Estimated Number of Respondents:* 2,473; (6) *Annual Estimated Number of Total Responses:* 2,473; (7) *Annual Estimated Number of Burden Hours:* 5,264; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* 0.

Statutory Authority: Section 106 of the National Historic Preservation Act (Pub. L. 89–665 106) establishes that WAP, SEP and EECBG recipients must retain sufficient documentation to demonstrate that the recipient (or subrecipient) has received required approval(s) prior to the expenditure of project funds to alter any historic structure or site.

Issued in Washington, DC, on June 7, 2012.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–14398 Filed 6–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14343–000]

Silt Water Conservancy District; 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.:* 14343–000.

c. *Date filed:* January 5, 2012.

d. *Applicant:* Silt Water Conservancy District.

e. *Name of Project:* Harvey Gap 400 Hydroelectric Project.

f. *Location:* The proposed Harvey Gap 400 Project would be located on the existing Grass Valley Canal irrigation pipeline in Garfield County, Colorado. The applicant holds an easement for all land on which the project structures will be located.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contacts:* Dan Cokley, Schmueser Gordon Meyer, 118 W 6th Street, Glenwood Springs, CO 81601; Mr. Ryan Broshar, SRA International, 12600 Colfax Ave. W., Lakewood, CO 80304, (303) 233–1275.

i. *FERC Contact:* Christopher Chaney, (202) 502–6778, *christopher.chaney@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 under *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 on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency.

l. *Description of Project:* The Harvey Gap 400 Project would consist of: (1) A proposed powerhouse containing one generating unit with an installed capacity of between 400 and 875 kilowatts; and (2) appurtenant facilities. The applicant estimates the project would have an average annual generation of 2,600,000 kilowatt-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–14343, 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.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public 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'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''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.

r. *Waiver of Pre-filing Consultation:* On August 29, 2011, the applicant requested the agencies to support the waiver of the Commission's consultation requirements under 18 CFR 4.38(c). On September 1 and 23, and November 22 and 28, 2011, the Colorado Water Quality Control Division, the Colorado Division of Water Resources, the Colorado Division of Parks and Wildlife, and the U.S. Fish and Wildlife Service, respectively, concurred with this request. On September 15, 2011 the Colorado State Historic Preservation Officer (SHPO) requested additional information. The applicant provided the additional information on November 22, 2011, and the SHPO provided additional comments on December 6, 2011. No other comments regarding the request for waiver were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Dated: June 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–14446 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14066–002]

Inside Passage Electric Cooperative; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original minor license.

b. *Project No.:* P–14066–002.

c. *Date filed:* May 25, 2012.

d. *Applicant:* Inside Passage Electric Cooperative.

e. *Name of Project:* Gartina Falls Hydroelectric Project.

f. *Location:* On Gartina Creek, near the Town of Hoonah, Alaska. The project would not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Peter A. Bibb, Operations Manager, Inside Passage Electric Cooperative, P.O. Box 210149, 12480 Mendenhall Loop Road, Auke Bay, AK 99821, (907) 789–3196, *pbibb@ak.net.*

i. *FERC Contact:* Ryan Hansen, 888 1st St. NE., Washington, DC 20426, (202) 502–8074, *ryan.hansen@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 30 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* June 25, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. The proposed Gartina Falls project would consist of: (1) A 56-foot-long, 14-foot-high concrete diversion structure at the head of Gartina Falls; (2) a sluiceway constructed on the left side of the center diversion section to convey flow to an intake chamber; (3) an approximately 54-inch-diameter, 225-foot-long steel penstock that would convey water from the intake chamber to the powerhouse; (4) a powerhouse containing a single 445-kilowatt cross-flow turbine/generator unit, discharging flows directly to Gartina Creek; (5) an approximately 3.8-mile-long, 12.5-kilovolt transmission line; (6) an approximately 0.5-mile-long access road; and (7) appurtenant facilities. The estimated annual generation output for the project is 1.81 gigawatt-hours.

o. A copy of the application 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 Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance—June 2012.

Issue Scoping Document 1 for comments—July 2012.

Issue notice of ready for environmental analysis—December 2012.

Commission issues final EA or final EIS—April 2013.

Dated: June 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–14450 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14342–000]

Silt Water Conservancy District; 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.:* 14342–000.

c. *Date filed:* January 5, 2012.

d. *Applicant:* Silt Water Conservancy District.

e. *Name of Project:* Harvey Gap 50 Hydroelectric Project.

f. *Location:* The proposed Harvey Gap 50 Project would be located on the existing Grass Valley Canal in Garfield County, Colorado. The applicant holds an easement for all land on which the project structures will be located.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. Applicant Contacts: Dan Cokley, Schmueser Gordon Meyer, 118 W. 6th Street, Glenwood Springs, CO 81601; Mr. Ryan Broshar, SRA International, 12600 Colfax Ave. W., Lakewood, CO 80304, (303) 233–1275.

i. *FERC Contact:* Christopher Chaney, (202) 502–6778, *christopher.chaney@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 under *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 on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency.

l. *Description of Project:* The Harvey Gap 50 Project would consist of: (1) a proposed powerhouse containing one generating unit with an installed capacity of between 50 and 75 kilowatts; and (2) appurtenant facilities. The applicant estimates the project would have an average annual generation of 410,000 kilowatt-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–14342, 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.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public 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'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''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.

r. *Waiver of Pre-filing Consultation:* On August 29, 2011, the applicant requested the agencies to support the waiver of the Commission's consultation requirements under 18 CFR 4.38(c). On September 1 and 23, and October 28, 2011, the Colorado Water Quality Control Division, the Colorado Division of Water Resources, and the U.S. Fish and Wildlife Service, respectively, concurred with this request. On September 15, 2011 the Colorado State Historic Preservation Officer (SHPO) requested additional information. The applicant provided the additional information on November 22, 2011, and the SHPO provided additional comments on December 6, 2011. No other comments regarding the request for waiver were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Dated: June 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–14448 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Combined Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–782–000.

Applicants: Atmos Energy Corporation.

Description: Petition for Temporary Waivers and Request for Expedited Action and Shortened Comment Period of Atmos Energy Corporation.

Filed Date: 5/31/12.

Accession Number: 20120531–5400

Comments Due: 5 p.m. ET 6/12/12.

Docket Numbers: RP12–790–000.

Applicants: Eastern Shore Natural Gas Company.

Description: Storage Tracker 06–2012 to be effective 6/1/2012.

Filed Date: 6/5/12.

Accession Number: 20120605–5050.

Comments Due: 5 p.m. ET 6/18/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–739–001.

Applicants: Texas Gas Transmission, LLC.

Description: Amendment to RP12–739–000 to be effective 6/17/2012.

Filed Date: 6/6/12.

Accession Number: 20120606–5012.

Comments Due: 5 p.m. ET 6/18/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 6, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2012–14320 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–757–000.

Applicants: Williston Basin Interstate Pipeline Comp.

Description: Company Name Change to be effective 7/1/2012.

Filed Date: 5/31/12.

Accession Number: 20120531–5100.

Comments Due: 5 p.m. ET 6/12/12.

Docket Numbers: RP12–780–000.

Applicants: El Paso Natural Gas Service Company.

Description: El Paso Natural Gas Company's 2011 (Jan-Mar) Penalty Credit Report.

Filed Date: 5/31/12.

Accession Number: 20120531–5395.

Comments Due: 5 p.m. ET 6/12/12.

Docket Numbers: RP12–791–000.

Applicants: Dauphin Island Gathering Partners.

Description: Negotiated Rates 2012–06–06 to be effective 6/7/2012.

Filed Date: 6/6/12.

Accession Number: 20120606–5045.

Comments Due: 5 p.m. ET 6/18/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2012–14415 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2547–005.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Compliance Filing re: 15 Minute Variable Scheduling to be effective 6/20/2012.

Filed Date: 6/6/12.

Accession Number: 20120606–5078.

Comments Due: 5 p.m. ET 6/27/12.

Docket Numbers: ER12–1170–003.

Applicants: Imperial Valley Solar Company (IVSC) 1, LLC.

Description: Amendment to Market-Based Rate Application—new effective date to be effective 6/12/2012.

Filed Date: 6/6/12.
Accession Number: 20120606–5046.
Comments Due: 5 p.m. ET 6/27/12.
Docket Numbers: ER12–1964–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits Notice of Cancellation.
Filed Date: 6/6/12.
Accession Number: 20120606–5092.
Comments Due: 5 p.m. ET 6/27/12.
Docket Numbers: ER12–1965–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits Notice of Cancellation.
Filed Date: 6/6/12.
Accession Number: 20120606–5095.
Comments Due: 5 p.m. ET 6/27/12.
Docket Numbers: ER12–1966–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits Notice of Cancellation.
Filed Date: 6/6/12.
Accession Number: 20120606–5096.
Comments Due: 5 p.m. ET 6/27/12.
Docket Numbers: ER12–1967–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits Notice of Cancellation.
Filed Date: 6/6/12.
Accession Number: 20120606–5097.
Comments Due: 5 p.m. ET 6/27/12.

Take notice that the Commission received the following electric reliability filings.

Docket Numbers: RD12–4–000.
Applicants: North American Electric Reliability Corporation.
Description: North American Electric Reliability Corporation Petition for Approval of Errata Changes to Seven Reliability Standards.
Filed Date: 6/5/12.
Accession Number: 20120605–5160.
Comments Due: 5 p.m. ET 6/26/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 06, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14364 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1956–000.
Applicants: Duke Energy Miami Fort, LLC.
Description: MBR Filing to be effective 10/1/2012.
Filed Date: 6/5/12.
Accession Number: 20120605–5113.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1957–000.
Applicants: Duke Energy Miami Fort, LLC.
Description: Reactive Filing to be effective 12/31/9998.
Filed Date: 6/5/12.
Accession Number: 20120605–5114.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1958–000.
Applicants: Duke Energy Piketon, LLC.
Description: MBR Filing to be effective 10/1/2012.
Filed Date: 6/5/12.
Accession Number: 20120605–5115.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1959–000.
Applicants: Duke Energy Stuart, LLC.
Description: MBR Filing to be effective 10/1/2012.
Filed Date: 6/5/12.
Accession Number: 20120605–5116.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1960–000.
Applicants: Duke Energy Stuart, LLC.
Description: Reactive Filing to be effective 12/31/9998.
Filed Date: 6/5/12.
Accession Number: 20120605–5117.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1961–000.
Applicants: Duke Energy Zimmer, LLC.
Description: MBR Filing to be effective 10/1/2012.
Filed Date: 6/5/12.
Accession Number: 20120605–5125.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1962–000.
Applicants: Duke Energy Zimmer, LLC.
Description: Reactive Filing to be effective 12/31/9998.
Filed Date: 6/5/12.
Accession Number: 20120605–5128.
Comments Due: 5 p.m. ET 6/26/12.
Docket Numbers: ER12–1963–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Consolidated Edison Company of New York, Inc notifies the Commission that it is cancelling FERC Rate Schedule No. 78 (RS 78) and FERC Rate Schedule No. 102 (RS 102).
Filed Date: 6/5/12.
Accession Number: 20120605–5151.
Comments Due: 5 p.m. ET 6/26/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 06, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14363 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13843–001]

Qualified Hydro 24, LLC; Notice of Cancellation of Scoping Meetings and Environmental Site Review

Take notice that Qualified Hydro 24, LLC, filed a request on June 4, 2012, to surrender the preliminary permit for the proposed Cle Elum Hydroelectric Project. The project would have been located at the U.S. Bureau of Reclamation's Cle Elum dam on the Cle Elum River near Cle Elum, in Kittitas County, Washington. By separate notice,

the Integrated Licensing Process for the Cle Elum Project will be terminated. Therefore, the scoping meetings and environmental site visit scheduled for June 13, 2012 in Cle Elum, Washington are cancelled.

Dated: June 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–14449 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1958–000]

Duke Energy Piketon, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Piketon, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14353 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1961–000]

Duke Energy Zimmer, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Zimmer, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14355 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1924–000]

EverPower Commercial Services LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of EverPower Commercial Services LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14357 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1931–000]

Pacific Wind Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Pacific Wind Lessee, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14359 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1951–000]

Duke Energy Dicks Creek, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Dicks Creek, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14362 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1948–000]

Duke Energy Conesville, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Conesville, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14361 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1946–000]

Duke Energy Beckjord, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Beckjord, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14360 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1926–000]

Independence Electricity; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Independence Electricity's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14358 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1959–000]

Duke Energy Stuart, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Stuart, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14354 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1956–000]

Duke Energy Miami Fort, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Miami Fort, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14352 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1923–000]

Big Savage, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Big Savage, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14350 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1954–000]

Duke Energy Killen, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Killen, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14351 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI12–7–000]

San Antonio Water System; Notice of Petition for Declaratory Order and Soliciting Comments, Protests, and/or Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Petition for Declaratory Order.

b. *Docket No:* DI12–7–000.

c. *Date Filed:* May 29, 2012.

d. *Applicant:* San Antonio Water System (SAWS).

e. *Name of Project:* SAWS Naco Hydroelectric Project.

f. *Location:* The existing SAWS Naco Hydroelectric Project is located at the Naco Pump Station, as part of the 50-mile-long Carrizo Regional Pipeline Project (CRP). The CRP Project is located in Gonzales, Guadalupe, and Bexar Counties, Texas.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Meg Conner, 28 U.S. Highway 281 North, San Antonio,

TX 78212; telephone: (210) 233–3176; Fax: (210) 233–4676; email: *www.mconner@saws.org.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, telephone: (202) 502–8768, or Email address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* July 10, 2012.

All documents should be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* Please include the docket number (DI12–7–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The existing SAWS Naco Hydroelectric Project is part of the CRP project, with the purpose to demonstrate the commercial viability of the LucidPipe Power System. The LucidPipe Power System is an in-conduit hydropower device that captures excess head pressure in large diameter water pipelines. The water flow in the CRP pipeline at Naco is reduced from a 36-inch-diameter to a 24-inch-diameter pipe at a valve control station, and three 18-kW turbine-generators, located along the 24-inch-diameter section of the CRP, take advantage of the increased pressure flow. The energy produced is connected to a motor control center at Naco, and is used to off-set electricity purchased from CPS Energy of San Antonio, TX.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the proposed project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. Locations of the Application: Copies of this filing are on file with the Commission and are available for public inspection. This filing may 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and/or ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14365 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14328–000]

Dolores Water Conservancy District; Notice of Completing Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

On May 10, 2012, Dolores Water Conservancy District, Colorado, filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Plateau Creek Pumped Storage Project to be located on Plateau Creek, near the town of Dolores, Montezuma County, Colorado. The project affects federal lands administered by the Forest Service (San Juan National Forest). The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following new facilities: (1) An upper reservoir, formed by a 130-foot-high by 6,500-foot-long, roller-compacted concrete (RCC) or embankment dam, with a total storage capacity of 8,000 acre-feet and a water surface area of 275 acres at full pool elevation; (2) a lower reservoir, formed by a 270-foot-high by 800-foot-long dam, having a total storage capacity of 9,500 acre-feet and a water surface area of 200 acres at full pool elevation; (3) two 15-foot-diameter steel penstocks consisting of a surface penstock, a vertical shaft, and an inclined tunnel; (4) two 27-foot-diameter tailrace tunnels that would be 850-feet-long; (5) an underground powerhouse containing two reversible pump-turbines totaling 500 megawatts (MW) (2 units x 250 MW) of generating capacity; and (6) a 7-mile-long, 230 kilovolt (kV) transmission line that would connect the switchyard with an existing 230 kV interconnection east of the project area. The project's annual energy output would vary between 600 and 1,500 gigawatthours.

Applicant Contact: Mr. Kenneth W. Curtis, III, Dolores Water Conservancy

District, 60 S. Cactus, P.O. Box 1150, Cortez, CO 81321; phone (970) 565–7562.

FERC Contact: Brian Csernak; phone: (202) 502–6144.

Competing Application: This application competes with Project No. 14328 filed December 1, 2011. Competing applications had to be filed on or before May 14, 2012.

Deadline for filing comments and motions to intervene: 60 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14328) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–14447 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are 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, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Communication date	Presenter or requester
Prohibited:		
1. CP11–128–000	5–11–12	Dorothy Carlone.[1]
2. CP11–72–000	6–5–12	Dan Heintzelman.
3. CP11–161–000	6–7–12	Julia Somers.
Exempt:		
1. P–13287–000	5–21–12	Hon. John J Bonacic.
2. CP11–161–000	5–24–12	Pike County Commissioners.
3. CP11–18–000	5–25–12	Hon. Trey Gowdy.
4. ER12–1699–000	5–29–12	Hon. Stevan Pearce.
5. ER12–1699–000	5–31–12	Hon. Susana Martinez.
6. CP11–72–000	5–31–12	Hon. Chuck Kleckley.
7. CP11–72–000	5–31–12	Hon. John A. Alario, Jr.
8. CP11–72–000	6–1–12	State/Parish Louisiana.[2]
9. P–14241–000	6–7–12	Hon. Kyle Johansen.

[1] Email record.

[2] Two letters; one from Governor Bobby Jindal and one from the Cameron Parish Police Jury.

Dated: June 7, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–14356 Filed 6–12–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9351–7]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless a registrant withdraws its request. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before July 13, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm*, *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Katie Weyrauch, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–0166; email address: *weyrauch.katie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 122 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Tables 1 and 2 of this unit.

Table 2 contains a list of registrations for which companies paying at one of the maintenance fee caps requested cancellation in the FY 2012 maintenance fee billing cycle. Because maintaining these registrations as active would require no additional fee, the Agency is treating these requests as voluntary cancellations under 6(f)(1).

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
000056–00068	Eaton's Answer II	Piperonyl butoxide, Pyrethrins, Silicon Dioxide.
000279–03106	Command 50 WP Herbicide	Clomazone.
000402–00123	No. 2306 Di-Cide	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Chemical name
000577–00545	Clear Cuprinol Brand Wood Preservative No. 20.	Zinc naphthenate.
000707–00286	Durotex 5000	Octhilinone, 5-Chloro-2-methyl-3(2H)-isothiazolone, 2-Methyl-3(2H)-isothiazolone.
000748–06010	Liquid Chlorine	Chlorine.
000748–06011	Liquid Chlorine MU	Chlorine.
001706–00159	Nalco 2594	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
002724–00457	Zoecon 9204 Fogger	Permethrin, 2,4-Dodecadienoic acid, 3,7,11-trimethyl-, ethyl ester, (S-(E,E))-.
002724–00780	Permethrin Plus Inverted Carpet Spray	MGK 264, Permethrin, Pyriproxyfen.
002749–00119	Tributyl Tin Oxide	Tributyltin oxide.
005481–00434	Tre-Hold for Citrus	Ethyl 1-naphthaleneacetate.
010088–00086	Flying Insect Killer	d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one, MGK 264, Piperonyl butoxide.
010807–00191	Misty Fire Ant Injector Spray II	Tetramethrin, Esfenvalerate.
032802–00028	Seed Safe—Turf Care (3.71% Siduron + 10–15–10 Lawn Food).	Siduron.
035571–00001	Chem Pro Algae Control Ed Liquid	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
047000–00085	Chem-Tech Dy-Sect Spray	d-trans-Chrysanthemum monocarboxylic ester of dl-2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one, Permethrin.
047000–00088	CT–250	Piperonyl butoxide, Pyrethrins, Permethrin.
055137–00001	Bio/Tec 112	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
060061–00009	Wolman Wood Preservative with Water Repellent Clear.	Zinc naphthenate, Diiodomethyl p-tolyl sulfone.
060061–00016	No. 00 Ready to Use Copper Treat	Copper naphthenate.
061842–00012	Polyquat	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
062719–00263	Lawn Fertilizer Plus	Clopyralid.
	Confront Weed Control	Triclopyr, triethylamine salt.
066806–00001	MB–507	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
067360–00003	Intercide TJP	Tributyltin oxide.
075613–00001	Stormoellen A/S—Stalosan F	Copper sulfate pentahydrate.
081880–00020	MON 12036 Herbicide	Halosulfuron-methyl.
AR020001	Goal 2XL Herbicide	Gas cartridge (as a device for burrowing animal control) Oxyfluorfen.
AR940005	Lorsban 4E–HF	Chlorpyrifos.
AR960009	Goal (R) 2XL Herbicide	Oxyfluorfen.
AZ020002	Kerb 50W Herbicide in WSP	Propyzamide.
AZ020010	Kerb 50W Herbicide in WSP	Propyzamide.
AZ050005	Kerb 50W Herbicide in WSP	Propyzamide.
CA000014	Visor 2E Herbicide	Thiazopyr.
CA010017	Visor 2E Herbicide	Thiazopyr.
CA020010	Success	Spinosad.
CA020016	GF120 Fruit Fly Bait	Spinosad.
CA040020	Kerb	Propyzamide.
CA040021	Visor*2E	Thiazopyr.
CA790002	Kerb 50W Selective Herbicide	Propyzamide.
CA950008	Goal 1.6E Herbicide	Oxyfluorfen.
CA950014	Lorsban4E	Chlorpyrifos.
CA960019	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960020	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960021	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960022	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960023	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960026	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA960028	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA970026	Goal (R) 2XL Herbicide	Oxyfluorfen.
CA990007	Visor 2E Herbicide	Thiazopyr.
CA990008	Visor 2E Herbicide	Thiazopyr.
CT020003	Goal 2XL Herbicide	Oxyfluorfen.
DE930004	Lorsban 4EHF	Chlorpyrifos.
FL990010	Visor 2E Herbicide	Thiazopyr.
GA980001	Tracer	Spinosad.
HI020001	Goal 2XL Herbicide	Oxyfluorfen.
IA080001	GF2017	Nitrapyrin.
ID910016	Kerb 50W Herbicide in WSP	Propyzamide.
KY040001	Strongarm	Diclosulam.
LA020001	Goal 2XL Herbicide	Gas cartridge (as a device for burrowing animal control) Oxyfluorfen.
LA020007	Goal 2XL	Oxyfluorfen.
LA060011	Intrepid 2F	Methoxyfenozide.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Chemical name
LA960012	Goal (R) 2XL Herbicide	Oxyfluorfen.
MI940001	Lorsban 4E–HF	Chlorpyrifos.
MI970002	Goal (R) 2XL Herbicide	Oxyfluorfen.
MN960006	Goal (R) 2XL Herbicide	Oxyfluorfen.
MO040004	Lorsban4E	Chlorpyrifos.
MS000010	Goal 2XL Herbicide	Oxyfluorfen.
MS010012	Glyphomax	Glyphosateisopropylammonium.
MS020003	Goal 2XL Herbicide	Oxyfluorfen.
MS050001	Glyphomax XRT	Glyphosateisopropylammonium.
MS050002	Glypro	Glyphosateisopropylammonium.
MS960015	Goal (R) 2XL Herbicide	Oxyfluorfen.
MT960003	Goal (R) 2XL Herbicide	Oxyfluorfen.
NC020003	Goal 2XL Herbicide	Oxyfluorfen.
NC960005	Goal (R) 2XL Herbicide	Oxyfluorfen.
NC960006	Goal (R) 2XL Herbicide	Oxyfluorfen.
NC970004	Tracer	Spinosad.
NC990007	Goal (R) 2XL Herbicide	Oxyfluorfen.
ND010005	NAF545	Glyphosateisopropylammonium.
ND020006	Goal 2XL Herbicide	Gas cartridge (as a device for burrowing animal control) Oxyfluorfen.
ND020007	Goal 2XL Herbicide	Gas cartridge (as a device for burrowing animal control) Oxyfluorfen.
ND050008	Durango	Glyphosate-isopropylammonium.
ND960005	Goal (R) 2XL Herbicide	Oxyfluorfen.
ND980001	Goal (R) 2XL Herbicide	Oxyfluorfen.
NJ010001	Spintor 2SC	Spinosad.
NV940002	Lorsban 4E–HF	Chlorpyrifos.
NV990007	Goal (R) 2XL Herbicide	Oxyfluorfen.
NY060002	Garlon 3A	Triclopyr, triethylamine salt.
NY080008	Radiant SC	Spinetoram (minor component (4-methyl)). Spinetoram (major component (4,5-dihydro)).
NY080009	Delegate WG	Spinetoram (minor component (4-methyl)). Spinetoram (major component (4,5-dihydro)).
OR940027	Lorsban 4E–HF	Chlorpyrifos.
OR960037	Goal (R) 2XL Herbicide	Oxyfluorfen.
OR970008	Goal (R) 2XL Herbicide	Oxyfluorfen.
PA010003	Spintor 2SC	Spinosad.
SC000001	Telone II	Telone.
SC970005	Tracer	Spinosad.
SD010002	Goal 2XL Herbicide	Oxyfluorfen.
SD960006	Goal (R) 2XL Herbicide	Oxyfluorfen.
TN060005	Telone II	Telone.
TN990002	Tracer	Spinosad.
TX000002	Visor 2E Herbicide	Thiazopyr.
TX040023	Lock-On	Chlorpyrifos.
VA020002	Spintor 2SC	Spinosad.
WA000010	Lorsban-4E	Chlorpyrifos.
WA970024	Goal (R) 2XL Herbicide	Oxyfluorfen.
WI030005	Lorsban-4E	Chlorpyrifos.
WV010001	Spintor 2SC	Spinosad.

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION DUE TO NON-PAYMENT OF MAINTENANCE FEES

Registration No.	Product name	Chemical name
002724–00621	Speer Py-Perm Aqueous Insect Killer #4.	Permethrin; Pyrethrins; Piperonyl butoxide.
010324–00100	Maquat MC1416–255T	Alkyl* dimethyl benzyl ammonium chloride; Tributyltin oxide.
010324–00101	Microbiocide T–40	Alkyl* dimethyl benzyl ammonium chloride; Tributyltin oxide.
083504–00003	Polyquat MUP	Poly(oxyethylene(dimethylimino)ethylene (dimethylimino)ethylene dichloride).
ID970015	Comite Agricultural Miticide	Propargite.
OR080004	Comite Agricultural Miticide	Propargite.
OR080005	Comite Agricultural Miticide	Propargite.
OR080006	Dimilin 2L	Diflubenzuron.
OR080007	Comite Agricultural Miticide	Propargite.
OR080008	Dimilin 2L	Diflubenzuron.
OR080009	Comite Agricultural Miticide	Propargite.
OR080011	Comite Agricultural Miticide	Propargite.
OR080012	Comite	Propargite.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
56	Eaton JT & Company Inc., 1393 E. Highland Rd., Twinsburg, OH 44087.
279	FMC Corp., Agricultural Products Group, Attn: Michael C. Zucker, 1735 Market St., RM. 1978, Philadelphia, PA 19103.
402	Hill Manufacturing Co., Inc., 1500 Jonesboro Rd., SE., Atlanta, GA 30315.
577	The Sherwin-Williams Co., 101 Prospect Ave., Cleveland, OH 44115.
707; AR020001	Rohm & Haas Co., 100 Independence Mall West, Philadelphia, PA 19106.
748	PPG Industries, Inc., 4325 Rosanna Drive, Allison Park, PA 15101.
1706	Nalco Company, 1601 West Diehl Road, Naperville, IL 60563.
2724	Wellmark International—D/B/A Central Life Sciences, 1501 E. Woodfield Rd., Suite 200 W., Schaumburg, IL 60173.
2749	Aceto Agricultural Chemicals Corp., 4 Tri Harbor Court, Port Washington, NY 11050.
5481	Amvac Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660–1706.
10088	Athea Laboratories Inc., P.O. Box 240014, Milwaukee, WI 53224.
10324	Mason Chemical Co, 721 W Algonquin Rd., Arlington Heights, IL 60005.
10807	Amrep, Inc., 990 Industrial Park Drive, Marietta, GA 30062.
32802	Gro Tec, Inc., D/B/A Howard Johnson's Enterprises Inc., Agent: RegWest Company, LLC, 8203 West 20th St., Suite A, Greeley, CO 80634–4696.
35571	Chem Pro Lab, Inc., 941 W. 190 St., Gardena, CA 90248.
47000	Chem-Tech, LTD, 4515 Fleur Dr. #303, Des Moines, IA 50321.
55137	Southwest Engineers, 39478 HWY 190 E, Slidell, LA 70461.
60061	Kop-Coat, Inc., 436 Seventh Avenue, Pittsburgh, PA 15219.
61842	Tessenderlo Kerley, Inc., Agent: Pyxis Regulatory Consulting, Inc., 4110 136th Street NW., Gig Harbor, WA 98332.
62719; NY–060002; CA–020016; NY–080009; MS–050001; ND–050008; IA–080001; AR–940005; CA–950014; DE–930004; MI–940001; MO–40004; NV–940002; OR–940027; WA–000010; WI–030005; AZ–020002; AZ–020010; AZ–050005; CA–040020; CA–790002; ID–910016; CA–000014; CA–010017; CA–040021; CA–990007; CA–990008; FL–990010; TX–000002; CA–950008; MS–010012; MS–050002; ND–010005; KY–040001; SC–000001; TN–060005; NJ–010001; PA–010003; VA–020002; WV–010001; NY–080008; CA–020010; GA–980001; NC–970004; SC–970005; TN–990002; TX–040023; AR–960009; CA–960019; CA–960020; CA–960021; CA–960022; CA–960023; CA–960026; CA–960028; CA–970026; CT–020003; LA–020007; LA–960012; MI–970002; MN–960006; MS–000010; MS–960015; MT–960003; NC–020003; NC–960005; NC–960006; NC–990007; ND–960005; ND–980001; NV–990007; OR–960037; OR–970008; SD–010002; SD–960006; WA–970024.	Dow AgroSciences LLC, 9330 Zionsville Rd. #308/2E, Indianapolis, IN 46268–1054.
66806	Tandem Technologies International, P.O. Box 1125, Carrollton, GA 30112.
67360	Ackros Chemicals, Inc., Agent: Technology Sciences Group Inc., 1150 18th St. NW., Suite 1000, Washington DC 20036.
75613	Stormollen A/S, Agent: Vitfoss USA, D/B/A Kongskilde, Industries, Inc., 19500 N. 1425 East Road, Hudson, IL 61748.
81880	Canyon Group LLC, c/o Gowan Company, 370 S. Main Street, Yuma, AZ 85364.
83504	Kerley Trading Inc., P.O. Box 15627, Phoenix, AZ 85060.
AR–020001; HI–020001; LA–020001; MS–020003; ND–020006; ND–020007.	Rohm & Haas Co., 100 Independence Mall West, Philadelphia, PA 19106–2399.
ID970015; OR080004; OR080005; OR080006; OR080007; OR080008; OR080009; OR080010; OR080011; OR080012.	Chemtura Corp., 199 Benson Rd., Middlebury, CT 06749.

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must

provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 3 of Unit II., have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Upon cancellation of the products identified in Tables 1 and 2 of Unit II, the Agency will allow existing stocks provisions as follows:

A. Registrations Listed in Table I of Unit II

The Agency anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

B. Registrations Listed in Table 2 of Unit II

The effective date of cancellation will be the date of the cancellation order. The Agency anticipates allowing registrants to sell and distribute existing stocks of these products until January 13, 2013, 1 year after the date on which the maintenance fee was due. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 2 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 30, 2012.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–14422 Filed 6–12–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2012–0110]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 11–05 Exporter's Certificate For Loan Guarantee & MT Insurance Programs.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for Ex-Im Bank support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or Ex-Im Bank. For MT insurance, the completed forms are held by the financial institution, only to be submitted to Ex-Im Bank in the event of a claim filing. Ex-Im Bank believes that EIB 11–05 requires emergency approval in order to continue operation of its long- and medium-term financing programs. It is an integral component of the programs and is heavily used.

Lack of an emergency approval of this form would preclude our ability to continue operation of its long- and medium-term financial institution programs. Ex-Im Bank developed the referenced form to obtain exporter certifications regarding the export transaction, content sourcing, and their eligibility to participate in USG programs. These details are necessary to determine the value and legitimacy of Ex-Im Bank financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

Accordingly, Ex-Im Bank requests emergency approval of EIB 11–05 in order to continue operation of these important export programs. The form can be view at: *www.exim.gov/pub/pending/eib11-05.pdf.*

DATES: Comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Export Import Bank, 811 Vermont Ave. NW., Washington, DC 20571, Attn: Donna Schneider.

SUPPLEMENTARY INFORMATION: Titles and Form Number EIB 11–05 Exporter's Certificate For Direct Loan, Loan Guarantee & MT Insurance Programs.

OMB Number: 3048–XXXX.

Type of Review: New.

Need and Use: The information collected will provide information needed to determine compliance and content for transaction requests submitted to the Export-Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 4,000.

Estimated Time per Respondent: 30 minutes.

Government Annual Burden Hours: 333.3 hours.

Frequency of Reporting or Use: As needed.

Total Cost to the Government: $12,913.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–14232 Filed 6–12–12; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Farm Credit System Insurance Corporation Board; Regular Meeting

AGENCY: Farm Credit System Insurance Corporation.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATE AND TIME: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 14, 2012, from 1:00 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available) and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Closed Session

- Confidential Report on Farm Credit System Performance

Open Session

A. Approval of Minutes

- April 24, 2012 (Regular Meeting)

B. Business Reports

- FCSIC Financial Reports
- Report on Insured Obligations
- Quarterly Report on Annual Performance Plan

C. New Business

- Policy Statement Concerning Financial Assistance
- Mid-Year Review of Insurance Premium Rates

Dated: June 7, 2012.

Dale L. Aultman,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2012–14374 Filed 6–12–12; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10288, Bramble Savings Bank, Milford, OH

Notice Is Hereby Given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Bramble Savings Bank, (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Bramble Savings Bank on September 17, 2010. 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 8.1, 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.

Dated at Washington, DC, this 7th day of June 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–14279 Filed 6–12–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011117–050.

Title: United States/Australasia Discussion Agreement.

Parties: A.P. Moller-Maersk A/S; ANL Singapore Pte Ltd.; CMA–CGM; Compagnie Maritime Marfret S.A.; Hamburg-Süd; Hapag-Lloyd AG; and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment extends the duration of the existing minimum service levels set forth in the agreement.

Agreement No.: 012175.

Title: Hapag-Lloyd/NYK–Hanjin Shipping Slot Charter Agreement.

Parties: Hapag-Lloyd, Nippon Yusen Kaisha, and Hanjin Shipping Co. Ltd.

Filing Party: Wayne R. Rohde, Esquire, Cozen O'Connor, 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement authorizes Hanjin to charter space to Hapag-Lloyd and NYK on three of its services in the trade between the U.S. West Coast on the one hand, and ports in Korea, China, Taiwan, Thailand, Vietnam, Singapore and Japan on the other hand.

By Order of the Federal Maritime Commission.

Dated: June 8, 2012.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–14439 Filed 6–12–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

ABC Trucking and Logistics L.L.C. (OFF), 3080 McCall Drive, Suite 1, Atlanta, GA 30340, Officers: Anthony C. Ogbodo, CEO (Qualifying Individual), Cyril O. Nwanjoku, Member, Application Type: New OFF License

Alexis Cruz dba Resources International (NVO & OFF), 330 Haven Avenue, Ste. 5F, New York, NY 10033 (Officer), Alexis Cruz, Sole Proprietor (Qualifying Individual), Application Type: New NVO & OFF License

ARCA International, Inc. (NVO & OFF), 2507 Investor's Row, 200, Orlando, FL 32837, Officers: Richard J. Clarke, Secretary (Qualifying Individual), Lawrence R. Lammers, President/CEO, Application Type: License Transfer

Atlantic Cargo Logistics LLC (NVO), 127 East New York Avenue, #1, Deland, FL 32720, Officers: Dietmar Lutte, Managing Member (Qualifying Individual), Susan M. Lutte, Member Application Type: New NVO License

C.H. Robinson International, Inc. dba Christal Lines (NVO & OFF), 14701 Charlson Road, #450, Eden Prairie, MN 55347, Officers: Kenneth D. Sine, Vice President Ocean Services (Qualifying Individual) Scott Satterlee, President, Application Type: QI change

Carrytech LLC (NVO & OFF), 770 The City Drive South, #8450, Orange, CA 92868, Officer: Sang Yul Lee, Member/Manager (Qualifying Individual), Application Type: New NVO & OFF License

Deep Ocean International Logistics LLC (NVO), 9814 Goldenglade Drive, Houston, TX 77064, Officer: Sandra Lesage, Member/Manager (Qualifying Individual), Application Type: New NVO License

Global Expeditors, LLC (NVO & OFF), 4 Englehard Avenue, Avenel, NJ 07001, Officer: Maher Doughan, Member (Qualifying Individual), Application Type: New NVO & OFF License

Global Link Logistics, Inc. (NVO), 1990 Lakeside Parkway, Suite 300, Tucker, GA 30084, Officers: Brian Pinkett, Vice President Operations & IT (Qualifying Individual), Raymond Winters, Jr., President/Director, Application Type: QI Change

Global Shipping & Freight International, Inc. (NVO & OFF), 4815 E. Busch Blvd., #207, Tampa, FL 33617, Officers: Wissam Bahloul, President (Qualifying Individual), Zuhdi Mansour, Vice President, Application Type: Add OFF Service

Jetta Cargo Services, Inc. (NVO), 5422 W. Rosecrans Avenue, Hawthorne, CA 90250, Officers: Ping aka Johnny Chan, Secretary/Treasurer (Qualifying Individual), Shengwu aka John Chen, President, Application Type: License Transfer

JP Express Shipping, Corp. (NVO), 1873 Bathgate Avenue, Bronx, NY 10457, Officer: Felipe Vasquez, President/Secretary/Treasurer (Qualifying Individual), Application Type: New NVO License

''KazTransLimited'' Limited Partnership (NVO), 14 Tslolkovsky Street, Shymkent 160050 Kuzakhstan, Officers: Petr Ugay, General Director (Qualifying Individual), Anastasiya Pak, Supervising Director, Application Type: New NVO License

Madkem Logistics Inc. (NVO & OFF), 355 Jefferson Avenue, Ground Floor, Brooklyn, NY 11221, Officers: Thomas Salako, Vice President (Qualifying Individual), Ade Ranti, President, Application Type: New NVO & OFF License

Matson Logistics Warehousing, Inc. (NVO & OFF), 1855 Gateway Blvd., #250, Concord, CA 94520, Officers: Steven T. Rubin, Vice President (Qualifying Individual), Mark Minor, Secretary, Application Type: Name Change

Ocean Star International, Inc. dba International Van Lines (NVO & OFF), 10880 Wiles Road, Coral Springs, FL 33076, Officer: Joshua Morales, President (Qualifying Individual), Application Type: Trade Name Change

OES Logistics, Inc. (NVO & OFF), 10900 E. 183rd Street, #130, Cerritos, CA 90703, Officer: Chiae Leem, President/Secretary/Treasurer (Qualifying Individual), Application Type: New NVO & OFF License

Overseas-Forwarding Int. Schiffahrts Speditionsgesellschaft MBH dba Overseas Shipping and Transport LLC (NVO), Grimm 8, D–20445, Hamburg, D–204457, Germany, Officers: Gabriele Awads, Vice President—American Affairs (Qualifying Individual), Philipp Stachow, Owner/Managing Member, Application Type: New NVO & OFF License

Premiere Logistics, Inc (NVO & OFF), 2613 Manhattan Beach Blvd., #100, Redondo Beach, CA 90278, Officers: Richard K. Lowery, Chief Executive Officer (Qualifying Individual), Michelle Marckwordt, Chief Financial Officer, Application Type: New NVO & OFF License

Rafael Castillo dba Castle Forwarding (OFF), 1100 S. Castlegate Avenue, Compton, CA 90221, Officer: Rafael Castillo, Sole Proprietor (Qualifying Individual), Application Type: New OFF License

Ray-Mont Logistics Corp. (OFF), 13619 E. 28th Avenue, Spokane Valley, WA 99216, Officers: Teri M. Zimmerman, Treasurer (Qualifying Individual), Charles Raymond, Director/President, Application Type: New OFF License

Richard J. Gonerko dba Zonn Agency (OFF), 1335 Oakhurst Avenue, Los Altos, CA 94024, Officer: Richard J. Gonerko, Sole Proprietor (Qualifying Individual), Application Type: New OFF License

Seastar International Group Inc. (OFF), 1170 US Highway 22, #105, Bridgewater, NJ 08807, Officers: Ying Zhao, President (Qualifying Individual), Wei Liu, Secretary, Application Type: License Transfer

Sterling Relocation Americas Inc. (OFF), 187 Danbury Road, Wilton, CT 06897, Officers: Sharon Phipps, Vice President Transportation Services (Qualifying Individual), Rupert Morley, CEO Application Type: QI Change

Swift International Logistics, Inc. (NVO), 3 Powell Drive, West Orange, NJ 07052, Officer: Michelle Dachot, President/Secretary/Treasurer (Qualifying Individual), Application Type: New NVO License

T & B Master Logistics, Inc. (NVO & OFF), 1490 Beachey Place, Carson, CA 90746, Officers: Jun Hyun Park, President/CEO/Treasurer/CFO/Secretary (Qualifying Individual), Hyeon Sang Shin, Vice President, Application Type: QI Change

Transmar, Inc (NVO & OFF), 6132 NW 74th Avenue, Miami, FL 33166, Officers: Hugo A. Villanueva, President (Qualifying Individual), Sandra Villanueva, Vice President, Application Type: New NVO & OFF License

U.S. Cargo International Inc. (OFF), 2157 N.W. 79th Avenue, Miami, FL 33122, Officers: Daniel Gamas, President/Secretary/Director (Qualifying Individual), Joaquin Gamas, Vice President, Application Type: New OFF License

Dated: June 8, 2012.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–14442 Filed 6–12–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 018547N.
Name: Pallets in Motion.
Address: 1140 E. Sandhill Avenue, Carson, CA 90746.
Date Revoked: May 3, 2012.
Reason: Failed to maintain a valid bond.

License Number: 019439N.
Name: Shipping Express Inc.
Address: 147–35 Farmers Blvd., Suite 200, Jamaica, NY 11434.
Date Revoked: May 1, 2012.
Reason: Failed to maintain a valid bond.

License Number: 021442F.
Name: Ferm Holdings, Inc.
Address: 3640 NW 115th Avenue, Miami, FL 33178.
Date Revoked: May 1, 2012.
Reason: Failed to maintain a valid bond.

License Number: 022844N.
Name: World Freight Solutions Inc.
Address: 697 Dekle Street, Mobile, AL 36602.
Date Revoked: May 2, 2012.
Reason: Voluntarily surrendered license.

Vern W. Hill,

Director, Bureau of Certification and Licensing.

[FR Doc. 2012–14441 Filed 6–12–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 28, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Russell S. King,* North Oaks, Minnesota; to acquire voting shares of Northfield Bancshares, Inc., and thereby indirectly gain control of Community Resource Bank, both in Northfield, Minnesota.

Board of Governors of the Federal Reserve System, June 8, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–14392 Filed 6–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 9, 2012.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *PanAmerican Capital, Inc.,* Miami, Florida; to become a bank holding company by acquiring 92.60 percent of the voting shares of Chipola Community Bank, Marianna, Florida.

Board of Governors of the Federal Reserve System, June 8, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–14393 Filed 6–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 9, 2012.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Polonia MHC,* Huntingdon Valley, Pennsylvania; to convert to stock form and merge with and into Polonia Bancorp, which will subsequently merge with and into Polonia Bancorp, Inc. In addition, Polonia Bancorp, Inc., proposes to become a savings and loan holding company by acquiring 100 percent of the voting shares of Polonia Bank, all of Huntingdon Valley, Pennsylvania.

Board of Governors of the Federal Reserve System, June 8, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–14394 Filed 6–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 2012.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *RBB Bancorp,* Los Angeles, California; to acquire RBB Asset Management Company, Los Angeles, California, and thereby engage in extending credit and servicing loans, pursuant to section 225.28 (b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, June 8, 2012.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2012–14391 Filed 6–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under The Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[May 1, 2012 thru May 31, 2012]

05/01/2012	20120144	G	Kinder Morgan, Inc.; El Paso Corporation; Kinder Morgan, Inc.
05/02/2012	20120713	G	Robert C. Dart; Vestar Capital Partners IV, L.P.; Robert C. Dart.
	20120767	G	New Mountain Partners III, L.P.; American Wholesale Insurance Holding Company, LLC; New Mountain Partners III, L.P.
05/04/2012	20120762	G	Michael G. Rubin; Dreams, Inc.; Michael G. Rubin.
	20120770	G	J.P. Morgan Digital Growth Fund L.P.; Conduit Ltd.; J.P. Morgan Digital Growth Fund L.P.
	20120771	G	Electricite de France S.A.; Exelon Corporation; Electricite de France S.A.
	20120777	G	Lee Equity Partners Fund Summer MV LP; The Edelman Financial Group Inc.; Lee Equity Partners Fund Summer MV LP.
	20120782	G	Freepoint Commodities Holdings LLC; JPMorgan Chase & Co.; Freepoint Commodities Holdings LLC.
	20120784	G	Racecar Holding, LLC; Knology, Inc.; Racecar Holding, LLC.
05/07/2012	20120781	G	GTCR Fund X/A LP; Warburg Pincus Private Equity VIII, L.P.; GTCR Fund X/A LP.
05/08/2012	20120384	G	Nuance Communications, Inc.; Vlingo Corporation; Nuance Communications, Inc.
	20120757	G	Encore Capital Group, Inc.; Cerberus Partners. L.P.; Encore Capital Group, Inc.
	20120766	G	ConAgra Foods, Inc.; Odom's Tennessee Pride Sausage, Inc.; ConAgra Foods, Inc.
	20120775	G	Silver Lake Sumeru Fund, L.P.; MedSeelc, Inc.; Silver Lake Sumeru Fund, L.P.
05/09/2012	20120776	G	Madison Dearborn Capital Partners VI–A, L.P.; TRM Holdings Corporation; Madison Dearborn Capital Partners VI–A, L.P.
05/10/2012	20120774	G	Liberty Media Corporation; Live Nation Entertainment, Inc.; Liberty Media Corporation.

EARLY TERMINATIONS GRANTED—Continued

[May 1, 2012 thru May 31, 2012]

	20120807	G	Kia Motors Corporation; Hyundai Motor Company; Kia Motors Corporation.
05/11/2012	20120625	G	Sprouts Farmers Markets, LLC; Michael Gilliland; Sprouts Farmers Markets, LLC.
05/14/2012	20120742	G	Corvex Master Fund LP; Corrections Corporation of America; Corvex Master Fund LP.
	20120795	G	Tom Benson; NBA Development League Holdings. LLC; Tom Benson.
	20120796	G	Quad-C Partners VII, L.P.; Steven R. Matzkin, D.D.S.; Quad-C Partners VII, L.P.
	20120798	G	AZZ incorporated; Aron Seiken; AZZ incorporated.
	20120800	G	Intuit Inc.; Demandforce, Inc.; Intuit Inc.
	20120801	G	Kinder Morgan Energy Partners, L.P.; KKR 2006 Fund (Energy IV) L.P.; Kinder Morgan Energy Partners, L.P.
	20120805	G	Omnicell, Inc.; Excellere Capital Fund, L.P.; Omnicell, Inc.
	20120806	G	CenterPoint Energy, Inc.; Encana Corporation; CenterPoint Energy, Inc.
05/15/2012	20120786	G	Ingram Industries Inc.; GS Maritime Holding LLC; Ingram Industries Inc.
	20120799	G	Toshiba Corporation; International Business Machines Corporation; Toshiba Corporation.
	20120828	G	Sociedade de Gestao e Financiamentos, S.G.P.S., S.A.; Brisa Auto-Estradas de Portugal, S.A.; Sociedade de Gestao e Financiamentos, S.G.P.S., S.A.
05/16/2012	20120594	G	UnitedHealth Group, Inc.; Preferred Care Partners Holding Corp.; UnitedHealth Group, Inc.
	20120790	G	Alfa, S.A.B. de C.V.; J.L. French Automotive Castings, Inc.; Alfa, S.A.B. de C.V.
05/17/2012	20120809	G	Affiliated Managers Group, Inc.; Donald A. Yacktman; Affiliated Managers Group, Inc.
05/18/2012	20120810	G	Alix Blocker, Inc.; H&F Astro MV, L.P.; Alix Blocker, Inc.
	20120813	G	Centerbridge Capital Partners II, L.P.; P.F. Changs China Bistro, Inc.; Centerbridge Capital Partners II, L.P.
	20120818	G	Valeant Pharmaceuticals International, Inc.; Raymond J. and Maria Francis; Valeant Pharmaceuticals International, Inc.
	20120819	G	Microchip Technology Incorporated; Standard Microsystems Corporation; Microchip Technology Incorporated.
	20120820	G	Mark West Energy Partners, L.P.; Energy Spectrum Partners V LP; Mark West Energy Partners, L.P.
	20120826	G	Open Text Corporation; EasyLink Services International Corporation; Open Text Corporation.
05/21/2012	20120769	G	Thoma Bravo Fund IX, L.P.; WestView Capital Partners, L.P.; Thoma Bravo Fund IX, L.P.
	20120803	G	The Veritas Capital Fund IV, L.P.; 2003 TIL Settlement, c/o The Woodbridge Company Limited; The Veritas Capital Fund IV, L.P.
	20120815	G	Trimble Navigation Limited; Google, Inc.; Trimble Navigation Limited.
	20120824	G	Warburg Pincus Private Equity X, L.P.; Quad Partners III–ALP; Warburg Pincus Private Equity X, L.P.
	20120827	G	TrustHouse Services Holdings, LLC; Valley Services, Inc.; TrustHouse Services Holdings, LLC.
05/22/2012	20120791	G	Beam Inc.; Paul G. Coulombe; Beam Inc.
	20120814	G	Ascena Retail Group, Inc.; Charming Shoppes, Inc.; Ascena Retail Group, Inc.
	20120839	G	Ixia; Anue Systems, Inc.; Ixia.
05/24/2012	20120780	G	National Oilwell Varco, Inc.; Schlumberger N.V.; National Oilwell Varco, Inc.
	20120816	G	Catterton Partners VI, L.P.; Catterton Partners IV, L.P.; Catterton Partners VI, L.P.
	20120817	G	Catterton Partners VI, L.P.; Ferrara Pan Candy Company, Inc.; Catterton Partners VI, L.P.
	20120822	G	Jazz Pharmaceuticals Public Limited Company; EUSA Pharma Inc.; Jazz Pharmaceuticals Public Limited Company.
	20120825	G	Clayton, Dubilier & Rice Fund VIII, L.P.; BlueScope Steel Ltd.; Clayton, Dubilier & Rice Fund VIII, L.P.
	20120831	G	Towers Watson & Co.; Extend Health, Inc.; Towers Watson & Co.
05/25/2012	20120833	G	International Business Machines Corporation; Tealeaf Technology, Inc.; International Business Machines Corporation.
	20120835	G	Kratos Defense & Security Solutions, Inc.; Amy A. & Michel M. Fournier; Kratos Defense & Security Solutions, Inc.

EARLY TERMINATIONS GRANTED—Continued

[May 1, 2012 thru May 31, 2012]

	20120836	G	Danaher Corporation; VSS Monitoring, Inc.; Danaher Corporation.
	20120843	G	Akira Holding Foundation; Imperial Sugar Company; Akira Holding Foundation.
	20120845	G	Delta Air Lines, Inc.; Phillips 66; Delta Air Lines, Inc.
	20120849	G	Energy Transfer Equity, L.P.; Sunoco, Inc.; Energy Transfer Equity, L.P.
05/29/2012	20120834	G	Centre Capital Investors V, L.P.; FKA Distributing Co.; Centre Capital Investors V, L.P.
	20120838	G	Wells Fargo & Company; Merlin Group Holdings, LLC; Wells Fargo & Company.
	20120842	G	H.I.G. Capital Partners IV, L.P.; Madhavan K. Nayar; H.I.G. Capital Partners IV, L.P.
	20120851	G	Crosstex Energy, L.P.; Energy Equity Partners, L.P.; Crosstex Energy, L.P.
	20120852	G	OCP Trust; Golfsmith International Holdings, Inc.; OCP Trust.
	20120853	G	Nucor Corporation; ArcelorMittal S.A.; Nucor Corporation.
	20120854	G	General Dynamics Corporation; IPW Holdings, Inc.; General Dynamics Corporation.
	20120857	G	The Resolute Fund II, L.P.; Babcock International Group Inc.; The Resolute Fund H, L.P.
	20120871	G	Ajay Piramal; Providence Equity Partners V L.P.; Ajay Piramal.
05/30/2012	20120861	G	Agilent Technologies, Inc.; EQT V (No.1) Limited Partnership; Agilent Technologies, Inc.
05/31/2012	20120812	G	Seagate Technology plc; Philippe Spruch; Seagate Technology plc.

FOR FURTHER INFORMATION CONTACT: Renee Chapman, Contact Representative, or Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–14256 Filed 6–12–12; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 112 3143]

EPN, Inc.; Analysis of Proposed 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 July 9, 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 AEPN, File No. 112 3143'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/epnconsent,* 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: Jessica Lyon (202–326–2344), FTC, Bureau of Consumer Protection, 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 June 7, 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 July 9, 2012. Write AEPN, File No. 112 3143'' on your comment. Your comment B including your name and your state B 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/epnconsent* 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 AEPN, File No. 112 3143'' 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 July 9, 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.*

[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).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent agreement from EPN, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The Commission's proposed complaint alleges that EPN, which does business as Checknet, Inc., is a Utah corporation that is in the business of collecting debts for clients in a variety of industries, including commercial credit, retail, and healthcare. According to the complaint, In conducting business, EPN routinely obtains information about its clients' customers, which includes, but is not limited to: name, address, date of birth, gender, Social Security number, employer address, employer phone number, and in the case of healthcare clients, physician name, insurance number, diagnosis code, and medical visit type.

The complaint further alleges that EPN engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for personal information on its computers and networks. In particular, EPN failed to: (1) Adopt an information security plan that was appropriate for its networks and the personal information processed and stored on them; (2) assess risks to the consumer personal information it collected and stored online; (3) adequately train employees about security to prevent unauthorized disclosure of personal information; (4) use reasonable measures to assess and enforce compliance with its security policies and procedures, such as scanning networks to identify unauthorized peer-to-peer (''P2P'') file sharing applications and other unauthorized applications operating on the networks or blocking installation of such programs; and (5) use reasonable methods to prevent, detect, and investigate unauthorized access to personal information on its networks, such as by adequately logging network activity and inspecting outgoing transmissions to the Internet to identify unauthorized disclosures of personal information.

The complaint alleges that as a result of these failures, an EPN employee was able to install a P2P application on her desktop computer, which was connected to EPN's computer network, resulting in two files containing personal information about a client's customers being made available on a P2P network; other files containing personal information may also have been shared to P2P networks from that computer. The breached files contained personal information about approximately 3,800 consumers, including each consumer's name, address, date of birth, Social Security number, employer name, employer address, health insurance number, and a diagnosis code. The complaint alleges that such information, among other things, can easily be used to facilitate identity theft (which also could result in medical histories that are inaccurate because they include the medical records of identity thieves) and exposes sensitive medical data.

In fact, the presence of P2P software on business computers can pose significant data security risks. A 2010 FTC examination of P2P-related breaches uncovered a wide range of sensitive consumer data available on P2P networks, including health-related information, financial records, and drivers' license and Social Security numbers. *See* Press Release, FTC, Widespread Data Breaches Uncovered by FTC Probe (Feb. 22, 2010), *http://www.ftc.gov/opa/2010/02/p2palert.shtm.* Files shared to a P2P network are available for viewing or downloading by any computer user with access to the network. Generally, a file that has been shared cannot be removed permanently from the P2P network. In addition, files can be shared among computers long after they have been deleted from the original source computer.

According to the complaint, EPN's failure to employ reasonable and appropriate measures to prevent unauthorized access to personal information caused, or is likely to cause substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. Therefore, EPN's practices were, and are an unfair act or practice, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

The proposed order contains provisions designed to prevent EPN from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits misrepresentations about the privacy, security, confidentiality, and integrity of

any personal information collected from or about consumers. Part II of the proposed order requires EPN to establish, implement, and thereafter maintain a comprehensive information security program, including the designation of an employee to oversee EPN's security program, employee training, and implementation of reasonable safeguards. Part III of the order requires EPN to obtain, for a period of twenty years, biennial assessments of its information security program from an independent third-party professional possessing certain credentials or certifications.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires EPN to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third party assessments and supporting documents, EPN must retain the documents for a period of three years after the date that each assessment is prepared. Part V requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that EPN submit a compliance report to the FTC within 90 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. 2012–14369 Filed 6–12–12; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 102 3094]

Franklin Budget Car Sales, Inc.; Analysis of Proposed 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 July 9, 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 ''Franklin Auto Mall, File No. 102 3094'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/franklinautomallconsent,* 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: Karen Jagielski (202–326–2509), FTC, Bureau of Consumer Protection, 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 June 7, 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 July 9, 2012. Write ''Franklin Auto Mall, File No. 102 3094'' 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/franklinautomallconsent* 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 ''Franklin Auto Mall, File No. 102 3094'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary,

[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).

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 July 9, 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, a consent agreement from Franklin's Budget Car Sales, Inc., also doing business as Franklin Toyota/Scion (''Franklin Toyota'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The Commission's proposed complaint alleges that Franklin Toyota, a Georgia corporation, is a franchise automobile dealership that sells both new and used automobiles, leases automobiles, provides repair services for automobiles, and sells automobile parts. In connection with its automobile sales, Franklin Toyota also provides financing services to individual consumers. The complaint alleges that In the course of its business, Franklin Toyota routinely collects personal information from or about its customers, including but not limited to names, Social Security numbers, addresses, telephone numbers, dates of birth, and drivers' license numbers. The complaint alleges that Franklin Toyota is a ''financial institution'' as defined in the Gramm-Leach-Bliley (''GLB'') Act, 15 U.S.C. § 6801 *et seq*.

According to the complaint, Franklin Toyota engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for personal information on its computers and networks. In particular, Franklin Toyota failed to: (1) Assess risks to the consumer personal information it collected and stored online; (2) adopt policies, such as an incident response plan, to prevent, or limit the extent of, unauthorized disclosure of personal information; (3) use reasonable methods to prevent, detect, and investigate unauthorized access to personal information on its networks, such as inspecting outgoing transmissions to the Internet to identify unauthorized disclosures of personal information; (4) adequately train employees about information security to prevent unauthorized disclosures of personal information; and (5) employ reasonable measures to respond to unauthorized access to personal information on its networks or to conduct security investigations where unauthorized access to information occurred.

The complaint alleges that as a result of these failures, Franklin Toyota customers' personal information was accessed and disclosed on peer-to-peer (''P2P'') networks by a P2P application installed on a computer connected to Franklin Toyota's computer network. The complaint alleges that information for approximately 95,000 consumers, including but not limited to consumers' names, Social Security numbers, addresses, dates of birth, and drivers' license numbers, was made available on a P2P network. Such information can easily be used to facilitate identity theft and fraud.

Files shared to a P2P network are available for viewing or downloading by anyone using a personal computer with access to the network. Generally, a file that has been shared cannot be permanently removed from P2P networks.

In fact, the use of P2P software poses very significant data security risks to consumers. A 2010 FTC examination of P2P-related breaches uncovered a wide range of sensitive consumer data available on P2P networks, including health-related information, financial records, and drivers' license and social security numbers. *See Widespread Data Breaches Uncovered by FTC Probe: FTC Warns of Improper Release of Sensitive Consumer Data on P2P File-Sharing Networks* (Feb. 22, 2010), *http://www.ftc.gov/opa/2010/02/p2palert.shtm.* Files shared to a P2P network are available for viewing or downloading by any computer user with access to the network. Generally, a file that has been shared cannot be removed permanently from the P2P network. In addition, files can be shared among computers long after they have been deleted from the original source computer.

According to the complaint, Franklin Toyota violated the GLB Safeguards Rule by, among other things, failing to identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information; design and implement information safeguards to control the risks to customer information and failing to regularly test and monitor them; investigate, evaluate, and adjust the information security program in light of known or identified risks; develop, implement, and maintain a comprehensive written information security program; and designate an employee to coordinate the company's information security program.

In addition, the proposed complaint alleges that Franklin Toyota misrepresented that it implements reasonable and appropriate measures to protect consumers' personal information from unauthorized access, in violation of Section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45(a). Furthermore, the proposed complaint alleges that Franklin violated the GLB Privacy Rule by failing to send consumers annual privacy notices and by failing to provide a mechanism by which consumers could opt out of information sharing with nonaffiliated third parties.

The proposed order contains provisions designed to prevent Franklin Toyota from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits misrepresentations about the privacy, security, confidentiality, and integrity of any personal information collected from or about consumers. Part II of the proposed order prohibits Franklin Toyota from violating any provision of the GLB Act's Standards for Safeguarding Consumer Information Rule (''Safeguards Rule''), 16 CFR part 314, or the GLB Act's Privacy of Consumer Financial Information Rule (''Privacy Rule''), 16 CFR part 313. Part III requires Franklin Toyota to establish, implement, and thereafter maintain a comprehensive information security program, including the designation of an employee to oversee Franklin Toyota's security program, employee training, and implementation of reasonable safeguards. Part IV of the order requires Franklin Toyota to obtain, for a period of twenty years, biennial assessments of its information security program from an independent third-party professional possessing certain credentials or certifications.

Parts V through IX of the proposed order are reporting and compliance provisions. Part V requires Franklin

Toyota to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third party assessments and supporting documents, Franklin Toyota must retain the documents for a period of three years after the date that each assessment is prepared. Part VI requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part VII ensures notification to the FTC of changes in corporate status. Part VIII mandates that Franklin Toyota submit a compliance report to the FTC within 90 days, and periodically thereafter as requested. Part IX is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. 2012–14372 Filed 6–12–12; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin–PBS–2012–03; Docket 2012–0002; Sequence 11]

Federal Management Regulation; FMR Bulletin PBS–2012–03; Redesignations of Federal Buildings

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of a bulletin.

SUMMARY: The attached bulletin announces the designation and redesignation of three Federal buildings.

Expiration Date: This bulletin announcement expires October 31, 2012. The building designation and redesignations remains in effect until canceled or superseded by another bulletin.

FOR FURTHER INFORMATION CONTACT: U.S. General Services Administration, Public Buildings Service (PBS), 1800 F Street NW., Washington, DC 20405, telephone number: (202) 501–1100.

Dated:

Dan Tangherlini,

Acting Administrator of General Services.

U.S. GENERAL SERVICES ADMINISTRATION

REDESIGNATIONS OF FEDERAL BUILDINGS

TO: Heads of Federal Agencies

SUBJECT: Redesignations of Federal Buildings

1. *What is the purpose of this bulletin*? This bulletin announces the designation and redesignation of three Federal buildings.

2. *When does this bulletin expire*? This bulletin announcement expires October 31, 2012. The building designation and redesignations remain in effect until canceled or superseded by another bulletin.

3. *Designation.* The name of the designated property (between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee) is as follows:

M.D. Anderson Plaza
Jackson, TN 38301

4. *Redesignation.* The former and new names of the redesignated buildings are as follows:

Former name	New name
United States Courthouse, 80 Lafayette Street, Jefferson City, MO 65101.	Christopher S. Bond United States Courthouse, 80 Lafayette Street, Jefferson City, MO 65101.
United States Courthouse, 222 West 7th Avenue, Anchorage, AL 99501.	James M. Fitzgerald United States Courthouse, 222 West 7th Avenue, Anchorage, AL 99501.

5. *Who should we contact for further information regarding redesignation of these Federal buildings*? U.S. General Services Administration, Public Buildings Service (PBS), 1800 F Street, NW., Washington, DC 20405, telephone number: (202) 501–1100.

Dated: June 7, 2012

Dan Tangherlini,

Acting Administrator of General Services.

[FR Doc. 2012–14416 Filed 6–12–12; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Biennial Progress Report of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM)

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Availability of Report.

SUMMARY: The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces the availability of the *Biennial Progress Report 2010–2011: Interagency Coordinating Committee on the Validation of Alternative Methods.* The report was prepared in accordance with requirements of the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3).

The *Biennial Progress Report* describes activities and progress by NICEATM and ICCVAM during the period from January 2010 through December 2011. During the past two years, NICEATM, ICCVAM, and ICCVAM member agencies contributed to the national and international endorsement and adoption of 14 new and updated alternative safety testing methods. Since ICCVAM was established, NICEATM, ICCVAM, and the ICCVAM member agencies have contributed to the regulatory acceptance of over 50 alternative methods that can be used to protect the health of people, animals, and the environment while reducing, refining, and replacing animal use.

The *Biennial Progress Report* is available on the NICEATM–ICCVAM Web site at *http://iccvam.niehs.nih.gov/about/ICCVAMrpts.htm.* Copies can also be requested from NICEATM (see ''**ADDRESSES**'').

ADDRESSES: Requests for copies of the report should be sent by mail, fax, or email to Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709, (telephone) 919–541–2384, (fax) 919–541–0947, (email) *niceatm@niehs.nih.gov.* Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, NICEATM Director (phone 919–541–2384 or *niceatm@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background

The ICCVAM Authorization Act of 2000 established ICCVAM as a permanent interagency committee of NIEHS under NICEATM. The Act directs ICCVAM to coordinate interagency technical reviews of proposed new, revised, and alternative testing methods, including those that may reduce, refine (enhance animal well-being and lessen or avoid pain and distress), and replace animal use. ICCVAM prepares test method recommendations based on their scientific validity for regulatory safety testing, and submits these recommendations through the HHS Secretary (or designee) to U.S. Federal Agencies for adoption decisions.

A provision of the ICCVAM Authorization Act states that ICCVAM shall prepare ''reports to be made available to the public on its progress under this Act,'' with the first report to be completed within 12 months of enactment of the Act, and subsequent reports to be made biennially thereafter. The fifth ICCVAM biennial progress report, which summarizes ICCVAM activities and accomplishments for the years 2010 and 2011, is now available.

Summary of Report Highlights

The *Biennial Progress Report* describes new initiatives and progress by NICEATM and ICCVAM during the period from January 2010 through December 2011. During the past two years, NICEATM, ICCVAM, and ICCVAM member agencies contributed to the national and international endorsement and adoption of 14 new and updated alternative safety testing methods. Since ICCVAM was established, NICEATM, ICCVAM, and the ICCVAM member agencies have contributed to the regulatory acceptance of over 50 alternative methods that can be used to protect and improve the health of people, animals, and the environment while reducing, refining, and replacing animal use.

Selected highlights of NICEATM and ICCVAM activities described in the *Biennial Progress Report* include:

- On behalf of NICEATM and ICCVAM, NIEHS signed an amendment to an international cooperation agreement to add the Republic of Korea and its Korean Center for the Validation of Alternative Methods (KoCVAM) to the International Cooperation on Alternative Test Methods (ICATM). ICATM was established in 2009 by the United States, the European Union, Japan, and Canada to expedite the worldwide validation and regulatory acceptance of improved alternative test methods.
- The Organisation for Economic Co-operation and Development (OECD) adopted an international guidance document prepared by NICEATM and ICCVAM that describes how to use two cytotoxicity assays to reduce animal use for testing required to determine the poisoning potential of chemicals. NICEATM led the international validation studies for the two cytotoxicity assays, which can reduce animal use by up to 50% for each test.
- Federal agencies and the OECD adopted several new versions and applications of the murine local lymph node assay (LLNA); an alternative method recommended by ICCVAM to assess whether substances may cause allergic contact dermatitis. The test methods reduce animal use for each test by 20–40% and support expanded use of the LLNA for nearly all testing situations. Two new ''green'' versions of the LLNA were adopted that do not require radioactive reagents and will allow expanded use of the LLNA in laboratories worldwide.
- Federal agencies adopted ICCVAM recommended alternative test methods and procedures that will further reduce, refine, and replace animal use for eye safety testing. These include the routine use of medications to avoid most if not all pain and distress when it is necessary to use animals for required safety testing, and the first *in vitro* test method that can be used in a ''bottom-up'' approach to identify substances that are not considered eye hazards.
- NICEATM, ICCVAM, and their ICATM partners convened the first international workshop on alternative methods for human and veterinary vaccine potency and safety testing. The workshop reviewed the state of the science of alternative methods, and recommended priority research needed to develop improved and more efficient test methods that can also reduce, refine, and replace animal use. A focused workshop on human and veterinary rabies vaccine test methods was held in 2011 and additional focused workshops are planned for 2012 and 2013.
- ICCVAM completed international evaluation of an *in vitro* test method proposed as a screening test to identify substances with potential endocrine activity. The test method uses engineered human cells to identify substances that induce or inhibit activation of the human estrogen receptor. Use of this test method may reduce the number of animals necessary for endocrine disruptor screening.
- NICEATM and ICCVAM convened two Best Practices for Regulatory Safety Testing Workshops to promote the use of improved and more efficient test methods that can also reduce, refine, and replace animal use. Participants learned how to select and use approved alternative methods to assess the safety or potential hazards of chemicals and products.

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological and safety testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (enhance animal well-being and lessen or eliminate pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination and submission of new, revised, and alternative test methods and strategies applicable to the needs of U.S. Federal agencies. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

Dated: June 4, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–14436 Filed 6–12–12; 8:45 am]

BILLING CODE 4150–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Draft Five-Year Plan (2013–2017) for the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods and the Interagency Coordinating Committee on the Validation of Alternative Methods

AGENCY: Division of National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Availability of Draft Plan, Request for Comments

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) in collaboration with the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) has developed a draft NICEATM–ICCVAM Five-Year Plan. The plan describes four core strategies to foster and promote development, validation, and regulatory acceptance of scientifically sound alternative test methods by the Federal government and by other governments and multinational organizations. This document will provide strategic direction for NICEATM and ICCVAM during 2013–2017.

NIEHS and NICEATM request public comments on the draft 2013–2017 Five-Year Plan, which is available at *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.* NICEATM and ICCVAM in partnership with relevant agency program offices will consider these comments during development of the final plan.

DATES: The draft plan is available on the NICEATM–ICCVAM Web site at *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.* Written comments on the draft updated NICEATM–ICCVAM Five-Year Plan should be submitted on the Web site by August 13, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC, 27709, (telephone) 919–541–2384, (fax) 919–541–0947, (email) *niceatm@niehs.nih.gov.* Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background

Emerging scientific advances and technology innovations are driving transformative changes in toxicology and how safety testing is performed. The field of toxicology is evolving from a system based largely on animal testing toward one based on the integration of data from a wide range of sources, including *in vitro* methods that evaluate changes in biological pathways predictive of adverse outcomes and *in chemico* and *in silico* methods.

Congress established ICCVAM to promote the regulatory acceptance of new or revised scientifically valid toxicological test methods that protect human and animal health and the environment while reducing, refining (enhancing animal well-being and lessening or avoiding pain and distress), or replacing animal tests and ensuring human safety and product effectiveness. As directed by the ICCVAM Authorization Act (42 U.S.C. 285*l*–3), NICEATM and ICCVAM carry out activities that contribute to the validation and regulatory acceptance of new test methods and testing strategies.

In 2008, NICEATM and ICCVAM published the NICEATM–ICCVAM Five-Year Plan (2008–2012), which addressed ICCVAM's vision to play a leading role in fostering and promoting the development, validation, and regulatory acceptance of scientifically sound alternative test methods both within the Federal government and internationally (ICCVAM, 2008). NICEATM and ICCVAM have now prepared a draft plan to provide strategic direction for NICEATM and ICCVAM in accomplishing their purposes, duties, and mission for the years 2013–2017. In preparing this plan, NICEATM and ICCVAM considered information and comments submitted by member agencies and comments submitted in response to a **Federal Register** notice (76 FR 71977).

The draft plan outlines how, consistent with ICCVAM's statutory duties and purposes, NICEATM and ICCVAM will foster and promote the incorporation of scientific advances and innovative technologies into new improved test methods and strategies, and contribute to the transformation of toxicology. The draft plan describes four broad strategic opportunities for NICEATM and ICCVAM to foster and promote development, validation, and regulatory acceptance of scientifically sound alternative test methods by the Federal government and other organizations:

- *Promote the Application and Translation of Innovative Science and Technology* to develop predictive alternative test methods and efficient and predictive integrated testing and decision strategies (ITDS)
- *Advance Alternative Test Methods and Testing Strategies* through new evaluation activities for focus areas initially identified in the 2008–2012 Five-Year Plan and new focus areas for 2013–2017
- *Facilitate Regulatory Acceptance and Use of Alternative Methods* through high quality test method evaluations and effective outreach and communication
- *Develop and Strengthen Partnerships* with the broad range of ICCVAM stakeholders

The years 2013–2017 will be an essential transition period for NICEATM and ICCVAM in this transforming regulatory toxicology environment. For example, data from *in vitro* testing batteries and integrated decision strategies that consider all available information from *in chemico, in silico, in vitro, and/or in vivo* studies will be critical to regulatory decision-making in the future.

Request for Comments

NIEHS and NICEATM invite public comments from all ICCVAM stakeholders for consideration by ICCVAM and ICCVAM agencies' program offices on the draft 2013–2017 Five-Year Plan. The draft plan can be found on the NICEATM–ICCVAM Web site at *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.* In addition, comments are sought on how NICEATM and ICCVAM can most effectively contribute to the evolving transformation of safety testing. Stakeholder comments will be considered in finalization of the draft plan.

NICEATM prefers that comments be submitted electronically via a form on the NICEATM–ICCVAM Web site at *http://iccvam.niehs.nih.gov/docs/5yearplan.htm* or via email to *niceatm@niehs.nih.gov.* Individuals submitting comments are asked to include appropriate contact information (name, affiliation, mailing address, phone number, email, and sponsoring organization, if applicable). All comments received will be posted on the NICEATM–ICCVAM Web site and identified by the individual's name, affiliation, and sponsoring organization. Comments should be received by [insert date 60 days after publication date] to ensure consideration as the NICEATM–ICCVAM 2013–2017 Five-Year Plan is finalized.

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or

disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological and safety testing methods that more accurately assess the safety and hazards of chemicals and products. ICCVAM evaluations include test methods and strategies that will reduce or replace animal use, or refine animal use by enhancing animal welfare and avoiding or lessening pain and distress.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods and strategies applicable to the needs of U.S. Federal agencies.

NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

References

ICCVAM. 2008. The NICEATM–ICCVAM Five-Year Plan (2008–2012). A plan to advance alternative test methods of high scientific quality to protect and advance the health of people, animals, and the environment. NIH Publication No. 08–6410. Research Triangle Park, NC: NIEHS.

Available: http://iccvam.niehs.nih.gov/docs/5yearplan.htm.

Dated: June 4, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–14435 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Adapting Best Practices for Medicaid Readmissions.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on March 28th, 2012 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 13, 2012.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRO.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Adapting Best Practices for Medicaid Readmissions

One particular mission of AHRQ is to improve the efficiency of health care through reducing unnecessary health care costs while maintaining or improving quality. The proposed data collection supports this goal through developing strategies to assist safety net hospitals in reducing readmissions for Medicaid patients. Previous research has shown that a focus on transitional care, including needs assessment, discharge planning, post-discharge intervention, and care coordination can reduce avoidable readmissions. Based on this evidence, there have been a number of strategies and resources developed for hospitals to reduce avoidable readmissions, including:

- The Aging & Disability Resource Centers Evidence-Based Care Transitions program by the Administration on Aging & CMS to support state efforts in implementing evidence-based care transition models for older adults and individuals with disabilities.
- The State Action on Avoidable Rehospitalizations (STAAR) initiative by the Institute for Healthcare Improvement to improve care transitions and care coordination through state-based multi-stakeholder collaborative efforts.
- The Hospital-to-Home (H2H) initiative by the American College of Cardiology to reduce readmissions for patients with cardiovascular conditions.
- Project Re-Engineered Discharge (RED), funded by AHRQ and the National Institutes of Health (NIH) National Heart, Lung, and Blood Institute, to reduce re-hospitalizations by improving hospital discharge processes.

However, the majority of these strategies and resources focuses on general patient populations or specifically targets the elderly and/or disabled, primarily Medicare populations. Recent research finds that rates of readmission among Medicaid-insured non-elderly adults equals that of the elderly, Medicare-insured population and is 60 percent higher than a privately-insured population. It is not known whether existing resources and strategies to reduce readmissions address the circumstances and characteristics of Medicaid-insured patients. Particular socio-demographic characteristics more prevalent in populations insured through Medicaid, such as low-income, racial and ethnic minority, low literacy, housing instability, mental illness, substance abuse disorders, chronic and disabling conditions, language barriers, and discontinuous insurance coverage may mean that strategies for reducing readmissions need to be tailored specifically to the unique needs of this population.

Additionally, safety net hospitals, which serve large populations of the most vulnerable in society and where Medicaid is often a major payer, face unique conditions. Not only do they serve more vulnerable populations, they are often constrained by their financing and governance structures. Safety net hospitals generally operate on lower

financial margins than other hospitals because they are often underpaid for many services provided to Medicaid recipients and the uninsured. Faced with declining contributions from state and local governments and payment reduction from both public and private payers, many are struggling to meet the growing demand for their services with stagnant or declining revenues. Resources addressing hospital readmissions may also have to be tailored to meet the unique circumstances of safety net settings.

This project will recruit six safety net hospitals to assess the existing resources and strategies and suggest and test modifications to address the particular circumstances related to Medicaid readmissions and safety net hospital settings. The goals of this project are to:

- Identify factors at the patient, provider, and community levels that especially contribute to hospital readmissions for Medicaid patients;
- Assess and test existing strategies to reduce avoidable readmissions for their adequacy and applicability to Medicaid-insured populations and safety net hospital settings;
- Modify and test modifications of existing strategies as necessary for applicability to Medicaid-insured populations and safety net hospital settings; and
- Develop a package of revised strategies for reducing avoidable readmissions that are specific to the factors contributing to Medicaid-insured patient readmissions in safety net settings.

Four cycles of testing will be conducted to collect data on samples of patient readmissions in each of the participating hospitals. The data will be collected and analyzed by the hospital staff after each cycle. The first cycle will identify factors related to Medicaid readmissions, as well as establishing baseline measures, while the next 3 cycles will be a quality improvement effort to test the existing strategies, or modifications to existing strategies, to address the factors identified in the first cycle. Each cycle will use a different sample of Medicaid readmission patients.

This study is being conducted by AHRQ through its contractor, John Snow, Inc. (JSI), pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

(1) Medical records review—The medical records review will gather background information about a patient's index admission and readmission. Data to be abstracted from the medical record includes patient demographic information, living arrangements, dates and timing of index and readmissions, lengths of stay, diagnoses on admission, source of admission, discharge disposition, and other transition factors, as well as the name and setting of the patient's primary care provider (PCP), and whether an appointment was made with the PCP before discharge.

(2) Patient/family/caregiver interview—After completion of the patient's medical record review, interviews will be conducted with the patient and a family member or caretaker (using the same tool for all) who has permission to discuss the patient's case. The purpose of the patient/family/caregiver interviews is to obtain the patient/family perspective, in their own words, of their index admission, their transition period, and their readmission. Data to be collected includes perspectives on reasons for readmission, discharge experience, extent to which they were able to follow any discharge instructions provided, setting to which they were discharged, and any other assistance needed.

(3) Provider interview—Provider interviews will complete the patient readmission data. Two providers involved in each readmission case will be interviewed. Providers are likely to be from the hospital setting (e.g., hospitalists, admitting physicians, emergency room physicians) but also may be from the larger care community (e.g., primary care, skilled nursing facility, home health). Providers selected will change from case to case, although any particular provider may be asked about more than one readmission over the course of the project. Providers will be asked why they believe the patient was readmitted and what they think could have been done to avoid the readmission.

The purpose of the primary data collections is to add insight and direct patient/family and provider input and experience into all phases of the project. The first data collection will provide patient/family and provider insight into the process of identifying factors related to Medicaid readmissions. Based on these factors, existing readmissions strategies will be assessed for their suitability in addressing these factors. Participating hospitals will then select existing or modified strategies to test in their settings using a rapid cycle QI process. Primary data collection will occur during each of the three testing cycles for purposes of gathering patient and provider insight into the factors associated with readmissions of Medicaid patients and gauging the extent to which the modified strategies would be able to address those factors.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden for the respondent's time to participate in the project. The medical records review will be performed by one QI nurse at each of the 6 participating hospitals for 80 readmission cases (20 from each of 4 cycles) and will take about 20 minutes per case. In that the primary data collections are intended to inform the factors related to Medicaid readmissions and inform the testing of existing or modified strategies, there is no set number of readmissions cases required during each of the four data collection cycles. Participating hospitals will be instructed that it is a process that should continue until patterns of response converge and little new information is being learned, with 20 cases as the maximum during any one of the four cycles of data collection.

For each readmission case interviews will be conducted by the QI nurse with a total of 120 patients and family member or care giver (20 of each from each of the 6 hospitals) during each of the 4 cycles of data collection. The interviews are estimated to require 10 minutes each. The QI nurse will also conduct interviews with 2 providers associated with each readmission case (a total of 240 providers across the 6 hospitals) during each of the 4 cycles and will take about 5 minutes. The total burden is estimated to be 640 hours annually.

Exhibit 2 shows the estimated cost burden associated with the respondent's time to participate in this project. The total cost burden is estimated to be $23,398 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Medical records review	6	80	20/60	160
Patient/family/caregiver interviews	120	4	10/60	80
Patient interview	120	4	10/60	80
Family/caregiver interview QI Nurse to conduct interviews	6	160	10/60	160
Provider interviews:				
Provider interviews	240	4	5/60	80
QI Nurse to conduct interviews	6	160	5/60	80
Total	498	na	na	640

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Medical records review	120	160	$32.56	$5,210
Patient/family/caregiver interviews:				
Patient interview	120	80	$21.35	$1,708
Family/caregiver interview	120	80	$21.35	$1,708
QI Nurse to conduct interviews	6	160	$32.56	$5,210
Provider interviews:				
Provider interviews	240	80	$86.96	$6,957
QI Nurse to conduct interviews	6	80	$32.56	$2,605
Total	498	640	na	$23,398

*Based upon the mean of the average wages, National Compensation Survey: Occupational wages in the United States May 2010, ''U.S. Department of Labor, Bureau of Labor Statistics;'' 29–1111 (Registered Nurse, $32.56/hr); 00–0000 (All Occupations, $21.35/hr); 29–1069 (Physicians and Surgeons, All Other, $86.96/hr).

Estimated Annual Costs to the Federal Government

The total cost to the government is estimated to be $253,033, which includes costs for project development, data collection, data analysis, publication, project management, and overhead as shown in Exhibit 3. The data collection occurs throughout the 2.5 year project term (30 months); thus, it has an estimated annual cost of $101,212.

EXHIBIT 3—ESTIMATED ANNUAL AND TOTAL COSTS TO THE FEDERAL GOVERNMENT

Task/activity	Estimated annual cost	Estimated total cost
Project Development	$7,438	$18,596
Data collection	30,866	77,165
Data analysis	9,470	23,676
Publication	5,606	14,016
Project Management	15,086	37,716
Overhead	32,746	81,864
Total	101,212	253,033

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 1, 2012.

Carolyn M. Clancy,

Director.

[FR Doc. 2012–14206 Filed 6–12–12; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency Information Collection Activities

Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Medical Expenditure Panel Survey (MEPS) Household Component and the MEPS Medical Provider Component'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by August 13, 2012.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey (MEPS) Household Component and the MEPS Medical Provider Component

For over thirty years, results from the MEPS and its predecessor surveys (the 1977 National Medical Care Expenditure Survey, the 1980 National Medical Care Utilization and Expenditure Survey and the 1987 National Medical Expenditure Survey) have been used by OMB, DHHS, Congress and a wide number of health services researchers to analyze health care use, expenses and health policy.

Major changes continue to take place in the health care delivery system. The MEPS is needed to provide information about the current state of the health care system as well as to track changes over time. The MEPS permits annual estimates of use of health care and expenditures and sources of payment for that health care. It also permits tracking individual change in employment, income, health insurance and health status over two years. The use of the National Health Interview Survey (NHIS) as a sampling frame expands the MEPS analytic capacity by providing another data point for comparisons over time.

Households selected for participation in the MEPS Household Component (MEPS–HC) are interviewed five times in person. These rounds of interviewing are spaced about 5 months apart. The interview will take place with a family respondent who will report for him/herself and for other family members.

The MEPS–HC has the following goal:

- To provide nationally representative estimates for the U.S. civilian noninstitutionalized population for health care use, expenditures, sources of payment and health insurance coverage.

The MEPS Medical Provider Component (MEPS–MPC) will contact medical providers (hospitals, physicians, home health agencies and institutions) identified by household respondents in the MEPS–HC as sources of medical care for the time period covered by the interview, and all pharmacies providing prescription drugs to household members during the covered time period. The MEPS–MPC is not designed to yield national estimates. The sample is designed to target the types of individuals and providers for whom household reported expenditure data was expected to be insufficient. For example, households with one or more Medicaid enrollees are targeted for inclusion in the MEPSMPC because this group is expected to have limited information about payments for their medical care.

The MEPS–MPC has the following goal:

- To provide an imputation source to supplement/replace household reported expenditure and source of payment information. This data will supplement, replace and verify information provided by household respondents about the charges, payments, and sources of payment associated with specific health care encounters.

This study is being conducted by AHRQ through its contractors, Westat and RTI International, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the cost and use of health care services and with respect to health statistics and surveys. 42 U.S.C. 299a(a)(3) and (8); 42 U.S.C. 299b–2.

Method of Collection

To achieve the goals of the MEPS–HC the following data collections are implemented:

1. *Household Component Core Instrument.* The core instrument collects data about persons in sample households. Topical areas asked in each round of interviewing include condition enumeration, health status, health care utilization including prescribed medicines, expense and payment, employment, and health insurance. Other topical areas that are asked only once a year include access to care, income, assets, satisfaction with health plans and providers, children's health, and adult preventive care. While many of the questions are asked about the entire reporting unit (RU), which is typically a family, only one person normally provides this information.

2. *Adult Self Administered Questionnaire.* A brief self-administered questionnaire (SAQ) will be used to collect self-reported (rather than through household proxy) information on health status, health opinions and satisfaction with health care for adults 18 and older. The satisfaction with health care items are a subset of items from the Consumer Assessment of Healthcare Providers and Systems (CAHPS®). The health status items are from the Short Form 12 Version 2 (SF–12 version 2), which has been widely used as a measure of self-reported health status in the United States, the Kessler Index (K6) of non-specific psychological distress, and the Patient Health Questionnaire (PHQ–2).

3. Diabetes Care SAQ. A brief self administered paper-and-pencil questionnaire on the quality of diabetes care is administered once a year (during rounds 3 and 5) to persons identified as having diabetes. Included are questions about the number of times the respondent reported having a hemoglobin A1c blood test, whether the respondent reported having his or her feet checked for sores or irritations, whether the respondent reported having an eye exam in which the pupils were dilated, the last time the respondent had his or her blood cholesterol checked and whether the diabetes has caused kidney or eye problems. Respondents are also asked if their diabetes is being treated with diet, oral medications or insulin.

4. *Permission forms for the MEPS–MPC Provider and Pharmacy Survey.* As in previous panels of the MEPS, we will ask respondents for permission to obtain supplemental information from their medical providers (hospitals, physicians, home health agencies and institutions) and pharmacies.

To achieve the goal of the MEPS–MPC the following data collections are implemented:

1. *MPC Screening Call.* An initial screening call is placed to determine the type of facility, whether the practice or facility is in scope for the MEPS–MPC, the appropriate MEPS–MPC respondent and some details about the organization and availability of medical records and billing at the practice/facility. All hospitals, physician offices, home health agencies, institutions and pharmacies are screened by telephone. A unique screening instrument is used for each of the seven provider types in the MEPS–MPC.

2. *Home Care Provider Questionnaire for Health Care Providers.* This questionnaire is used to collect data from home health care agencies which provide medical care services to household respondents. Information collected includes type of personnel providing care, hours or visits provided per month, and the charges and payments for services received.

3. *Home Care Provider Questionnaire for Non-Health Care Providers.* This questionnaire is used to collect information about services provided in the home by non-health care workers to household respondents because of a medical condition; for example, cleaning or yard work, transportation, shopping, or child care.

4. *Medical Event Questionnaire for Office-Based Providers.* This questionnaire is for office-based physicians, including doctors of medicine (MDs) and osteopathy (DOs), as well as providers practicing under the direction or supervision of an MD or DO (e.g., physician assistants and nurse practitioners working in clinics). Providers of care in private offices as well as staff model HMOs are included.

5. *Medical Event Questionnaire for Separately Billing Doctors.* This questionnaire collects information from physicians identified by hospitals (during the Hospital Event data collection) as providing care to sampled persons during the course of inpatient, outpatient department or emergency room care, but who bill separately from the hospital.

6. *Hospital Event Questionnaire.* This questionnaire is used to collect information about hospital events, including inpatient stays, outpatient department, and emergency room visits. Hospital data are collected not only from the billing department, but from medical records and administrative records departments as well. Medical records departments are contacted to determine the names of all the doctors who treated the patient during a stay or visit. In many cases, the hospital administrative office also has to be contacted to determine whether the doctors identified by medical records billed separately from the hospital itself; the doctors that do bill separately from the hospital will be contacted as part of the Medical Event Questionnaire for Separately Billing Doctors. HMOs are included in this provider type.

7. *Institutions Event Questionnaire.* This questionnaire is used to collect information about institution events, including nursing homes, rehabilitation facilities and skilled nursing facilities. Institution data are collected not only from the billing department, but from medical records and administrative records departments as well. Medical records departments are contacted to determine the names of all the doctors who treated the patient during a stay. In many cases, the institution administrative office also has to be contacted to determine whether the doctors identified by medical records billed separately from the institution itself.

8. *Pharmacy Data Collection Questionnaire.* This questionnaire requests the national drug code (NDC) and when that is not available the prescription name, date prescription was filled, payments by source, prescription strength and form (when the NDC is not available), quantity, and person for whom the prescription was filled. When the NDC is available, we do not ask for prescription name, strength or form because that information is embedded in the NDC; this reduces burden on the respondent. Most pharmacies have the requested information available in electronic format and respond by providing a computer generated printout of the patient's prescription information. If the computerized form is unavailable, the pharmacy can report their data to a telephone interviewer. Pharmacies are also able to provide a CD–ROM with the requested information if that is preferred. HMOs are included in this provider type.

The MEPS is a multi-purpose survey. In addition to collecting data to yield annual estimates for a variety of measures related to health care use and expenditures, the MEPS also provides estimates of measures related to health status, consumer assessment of health care, health insurance coverage, demographic characteristics, employment and access to health care indicators. Estimates can be provided for individuals, families and population subgroups of interest. Data from the MEPS, both the HC and MPC components, are intended for a number of annual reports required to be produced by AHRQ, including the National Health Care Quality Report and the National Health Care Disparities Report.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the MEPS–HC and MEPS–MPC. The MEPS–HC Core Interview will be completed by 12,500 ''family level'' respondents, also referred to as RU respondents. Since the MEPS–HC consists of 5 rounds of interviewing covering a full two years of data, the annual average number of responses per respondent is 2.5 responses per year. The MEPS–HC core requires an average response time of 1½ hours to administer. The Adult SAQ will be completed once a year by each person in the RU that is 18 years old and older, an estimated 22,000 persons. The Adult SAQ requires an average of 7 minutes to complete. The Diabetes care SAQ will be completed once a year by each person in the RU identified as having diabetes, an estimated 1,700 persons, and takes about 3 minutes to complete. The permission form for the MEPS–MPC Provider Survey will be completed once for each medical provider seen by any RU member. Each of the 12,500 RUs in the MEPS–HC will complete an average of 5.2 forms, which require about 3 minutes each to complete. The permission form for the MEPS–MPC Pharmacy Survey will be completed once for each pharmacy for any RU member who has obtained a prescription medication. Each RU will complete an average of 3.1 forms, which take about 3 minutes to complete. The total annual burden hours for the MEPS–HC are estimated to be 54,715 hours.

All 37,600 medical providers and pharmacies included in the MEPS–MPC will receive a screening call which will take 2 minutes on average. The MEPS–MPC uses 7 different questionnaires; 6 for medical providers and 1 for pharmacies. Each questionnaire is relatively short and requires 3 to 5 minutes to complete. The total annual burden hours for the MEPS–MPC are estimated to be 20,565 hours. The total annual burden hours for the MEPS–HC and MPC is estimated to be 75,280 hours.

Exhibit 2 shows the estimated annual cost burden associated with the respondents' time to participate in this information. The annual cost burden for the MEPS–HC is estimated to be $1,189,505; the annual cost burden for the MEPS–MPC is estimated to be $309,798. The total annual cost burden

for the MEPS–HC and MPC is estimated to be $1,499,303.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
MEPS–HC				
MEPS–HC Core Interview	12,500	2.5	1.5	46,875
Adult SAQ	22,000	1	7/60	2,567
Diabetes care SAQ	1,700	1	3/60	85
Permission form for the MEPS–MPC Provider Survey	12,500	5.2	3/60	3,250
Permission form for the MEPS–MPC Pharmacy Survey	12.500	3.1	3/60	1,938
Subtotal for the MEPS–HC	61,200	na	na	54,715
MEPS–MPC				
MPC Screening Call*	37,600	1	2/60	1,253
Home care for health care providers questionnaire	465	6.5	5/60	252
Home care for non-health care providers questionnaire	35	6.6	5/60	19
Office-based providers questionnaire	12,000	5.8	5/60	5,800
Separately billing doctors questionnaire	12,000	2	3/60	1,200
Hospitals questionnaire	5,000	6.5	5/60	2,708
Institutions (non-hospital) questionnaire	100	1.5	5/60	13
Pharmacies questionnaire	8,000	23.3	3/60	9,320
Subtotal for the MEPS–MPC	75,200	na	na	20,565
Grand Total	136,400	na	na	75,280

* There are 7 different screening forms; one for each event type. The burden estimates for the individual forms ranges from 1 to 3 minutes. The estimate of 2 minutes used here is an average across all 7 screening forms.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate	Total cost burden
MEPS–HC				
MEPS–HC Core Interview	12,500	46,875	$21.74*	$1,019,06
Adult SAQ	22,000	2,567	21.74	55,807
Diabetes care SAQ	1,700	85	21.74	1,848
Permission form for the MEPS–MPC Provider Survey	12,500	3,250	21.74	70,655
Permission form for the MEPS–MPC Pharmacy Survey	12.500	1,938	21.74	V42,132
Subtotal for the MEPS–HC	61,200	54,715	na	1,189,505
MEPS–MPC				
MPC Screening Call	37,600	1,253	15.59**	19,534
Home care for health care providers questionnaire	465	252	15.59	3,929
Home care for non-health care providers questionnaire	35	19	15.59	296
Office-based providers questionnaire	12,000	5,800	15.59	90,422
Separately billing doctors questionnaire	12,000	1,200	15.59	18,708
Hospitals questionnaire	5,000	2,708	15.59	42,218
Institutions (non-hospital) questionnaire	100	13	15.59	203
Pharmacies questionnaire	8,000	9,320	14.43***	134,488
Subtotal for the MEPS–MPC	75,200	20,560	na	309,798
Grand Total	136,400	75,275	na	1,499,303

* Based upon the mean of the average wages for All Occupations (00–0000).
** Based upon the mean of the average wages for Medical Secretaries (43–6013).
*** Based upon the mean of the average wages for Pharmacy Technicians (29–2052).
Occupational Employment Statistics, May 2011 National Occupational Employment and Wage Estimates United States, U.S. Department of Labor, Bureau of Labor Statistics. *http://www.bls.gov/oes/current/oes_nat.htm#b29-0000.*

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the total and annualized cost of this information collection. The cost associated with the design and data collection of the MEPS–HC and MEPS–MPC is estimated to be $51,401,596 in each of the three years covered by this information collection request.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Sampling Activities	$3,002,731	$1,000,910
Interviewer Recruitment and Training	9,190,168	3,063,389
Data Collection Activities	93,611,428	31,203,809
Data Processing	23,087,605	7,695,868
Production of Public Use Data Files	21,079,118	7,026,373
Project Management	4,233,739	1,411,246
Total	154,204,789	51,401,596

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 1, 2012.

Carolyn M. Clancy,

Director.

[FR Doc. 2012–14204 Filed 6–12–12; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day-12–12NF]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 and send comments to Kimberly S. Lane, CDC 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

School Environment Study: Evaluating the Effects of CTG-supported School-based Nutrition and Physical Activity Policies on Students' Diet, Physical Activity, and Weight Status—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Prevention and Public Health Fund (PPHF) of the Patient Protection and Affordable Care Act of 2010 (ACA) provides an important opportunity for states, counties, territories, and tribes to advance public health across the lifespan and to reduce health disparities. The PPHF authorizes Community Transformation Grants (CTG) for the implementation, evaluation, and dissemination of evidence-based community preventive health activities. The CTG program emphasizes five strategic directions: (1) Tobacco-free living; (2) active lifestyles and healthy eating; (3) high impact, evidence-based clinical and other preventive services; (4) social and emotional well-being; and (5) healthy and safe physical environments.

The CTG program is administered by the Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP). As required by Section 4201 of the ACA, CDC is responsible for conducting a comprehensive evaluation of the CTG program which includes assessment over time of measures relating to each of the five strategic directions. CDC is requesting OMB approval to collect information needed for these assessments. This information collection will enable a multi-method evaluation of the school nutrition and physical activity environments and on related health indictors among students. The School Environment Study involves a quasi-experimental design that will assess nutrition-, physical activity-, and obesity-related outcomes and impacts, and compare differential changes in these outcomes and impacts between students sampled in middle schools supported by the CTG program and students sampled in middle schools not supported by the CTG program.

Four CTG program awardees (Broward County, Florida; Travis County, Texas; eight counties in Massachusetts (excludes the city of Boston and surrounding area); and Los Angeles County, California) were selected to participate in the School

Environment Study based on planned support for activities to encourage nutrition and physical activity environment changes in middle schools. Across the four awardees, 40 middle schools will be selected for study participation. Twenty of the 40 selected middle schools will be among those targeted by the awardees to receive CTG-supported programs and the remaining 20 schools are among those not targeted to receive CTG program support.

The study design includes a five year data collection plan with three waves of data collection. Wave one (baseline data collection) will occur during the spring semester of the 2012–2013 school year; wave two (interim data collection) will occur during the spring semester of the 2014–2015 school year; and wave three (final data collection) will occur during the spring semester of the 2016–2017 school year. CDC plans to collect data from students, school staff (teachers and key stakeholders), and to conduct an observation of the school food environment.

Students. A sample of non-ability-tracked 7th- and 8th-grade classrooms will be randomly selected for data collection. All students in selected classrooms will be invited to participate in the Student Nutrition and Physical Activity Survey (SNAPAS) and measurement of height and weight. The SNAPAS in-classroom, paper-and-pencil questionnaire will collect information about students' dietary and physical activity behaviors and their attitudes and awareness toward healthful eating and physical activity. To collect supplemental information on diet and physical activity, a subset of students will complete a 24-hour dietary recall interview and another subset of students will have information collected about their physical activity through the use of an accelerometer (an electronic activity meter worn on the body).

School staff. Two data collections will assess reported implementation and enforcement of school policies on nutrition and physical activity. First, a random sample of 7th- and 8th-grade teachers will be invited to participate in a survey either by completing a paper-and-pencil questionnaire or web-based survey. Second, the principal, school cafeteria manager, lead physical education teacher, and a representative from the district wellness council will be invited to participate in a semi-structured telephone interview regarding policy and system changes to the school nutrition and physical activity environments.

School food environment. An observational data collection will provide detailed information about competitive foods available for sale to students through vending machines, cafeteria à la carte lines, and other on-premises venues (e.g., concession stands, school stores). This data collection will permit an evaluation of school food policy implementation and will contribute to an understanding of where and to what extent the school food environment is a facilitator or a barrier to healthful eating.

The SNAPAS, teacher survey, and school food observation will occur during waves one, two, and three. The measurement of student height and weight, student supplemental data collections (i.e., dietary recalls and physical activity), and interviews with key stakeholders will be conducted during waves one and three only. A different sample of respondents will be selected at each wave of data collection.

The information to be collected will allow CDC to estimate the effectiveness of evidence- and practice-based policies and practices to improve healthy school environments and, in turn, the health of middle school students in U.S. public schools. The information will permit CDC to expand the existing evidence base on the capacity for policy- and systems-level changes to impact individual health.

OMB approval is requested for the first three years of the five-year CTG project period, i.e., waves one and two of planned data collection. OMB approval for wave three data collection will be requested in a future submission.

Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Students	Student Nutrition and Physical Activity Survey (SNAPAS).	2,000	1	30/60	1,000
	Body mass index (BMI) data collection.	1,000	1	20/60	333
	Wear log for physical activity measurement.	200	1	15/60	50
	24-hour dietary recall interview (initial recall).	334	1	30/60	167
	24-hour dietary recall interview (second recall).	34	1	30/60	17
Teachers	Teacher survey	400	1	10/60	67
School Officials	Semi-structured interview	54	1	1	54
Total					1,688

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–14396 Filed 6–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-12–12EG]

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

Use of Smartphones to Collect Information about Health Behaviors: Feasibility Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Despite the high level of public knowledge about the adverse effects of smoking, tobacco use remains the leading preventable cause of disease and death in the U.S., resulting in approximately 443,000 deaths annually. During 2005–2010, the overall proportion of U.S. adults who were current smokers declined from 20.9% to 19.3%. Despite this decrease, smoking rates are still well above Healthy People 2010 targets for reducing adult smoking prevalence to 12%, and the decline in prevalence was not uniform across the population. Timely information on tobacco usage is needed for the design, implementation, and evaluation of public health programs.

The evolution of completely new, completely mobile communications technologies provides a unique opportunity for innovation in public health. Text messaging and smartphone web access are immediate, accessible, and anonymous, a combination of features that could make smartphones ideal for the ongoing research, surveillance, and evaluation of risk behaviors and health conditions, as well as targeted dissemination of information.

CDC proposes to conduct a feasibility study to identify and evaluate the process of conducting surveys by text message and smartphone, the outcomes of the surveys, and the value of the surveys. The universe for this study is English-speaking U.S. residents aged 18–65. The sample frame will consist of a national random digit dial sample of telephone numbers from a frame of known cell phone exchanges. Respondents reached on their cell phones will be asked to complete an initial CATI survey consisting of a short series of simple demographic questions, general health questions, and questions about tobacco and alcohol use. At the conclusion of this brief survey, respondents who have smartphones will be asked to participate in the feasibility study, which consists of a first follow-up survey and, a week later, a second follow-up survey. Those who agree will receive invitations to participate by text message, which will include a link to the survey. A sample of respondents who do not have smartphones will be asked to participate in a text message pilot, which also consists of a first follow-up survey and a second follow-up survey. Text message respondents will receive a text message inviting them to participate; respondents opting in will be texted survey questions one at a time. Before initiating the feasibility study, CDC will conduct a brief pre-test of information collection forms and procedures.

This study will evaluate: (1) Response bias of a smartphone health survey by comparing data collected via CATI to data collected via smartphones/text messages, and data collected via smartphones to data collected via text messages, (2) relative cost-effectiveness of data collected via CATI to data collected via smartphones/text messages; (3) coverage bias associated with restricting the sample to smartphone users; and (4) the utility of smartphones for completing frequent, short interviews (e.g., diary studies to track activities or events).

OMB approval is requested for one year. Participation is voluntary and respondents can choose not to participate at any time. There are no costs to respondents other than their time. The total estimated annualized burden hours are 236.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	No. of respondents	No. of responses per respondent	Avg. burden per response (in hr)
Adults Aged 18 to 65, All cell phone users	Pre-test (CATI Screener/CATI Recruitment ...	20	1	8/60
	CATI Screener	1,990	1	1/60
	CATI Recruitment	995	1	7/60
Adults Aged 18 to 65, Smartphone Users	First Web Survey Follow-up for Smartphone Users.	697	1	3/60
	Second Web Survey Follow-up for non-Smartphone Users.	592	1	3/60
Adults Aged 18 to 65, Non-smartphone Users	First Text Message Survey Follow-up for non-Smartphone Users.	200	1	3/60
	Second Text Message Survey Follow-up for non-Smartphone Users.	170	1	3/60

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–14395 Filed 6–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–12MX]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Kimberly S. Lane, at 1600 Clifton Road, MS D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Research to Inform the Prevention of Asthma in Healthcare—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Healthcare is the largest industry in the United States and performs a vital function in society. Evidence from both surveillance and epidemiologic research indicates that healthcare workers have an elevated risk for work-related asthma (WRA) associated with exposure to groups of agents such as cleaning products, latex, indoor air pollution, volatile organic compounds (VOCs) and bioaerosols. Recent epidemiologic studies of WRA among healthcare workers have utilized job exposure matrices (JEMs) based on probability of exposure, however, specific exposures/etiologic agents are not well characterized and quantitative exposure measurements are lacking. In this project, NIOSH will augment the existing JEM with quantitative exposure data, which will significantly enhance the existing JEMs and develop a survey questionnaire for asthma in healthcare.

Since asthma continues to be a problem among healthcare workers, the overall goal of this project is to prevent work-related asthma among healthcare workers. The primary objective is to identify modifiable occupational risk factors for asthma in healthcare that will inform strategies for prevention. Specific Aims that support the Primary Objective are:

Aim 1. Measure frequency of asthma onset, related symptoms, and exacerbation of asthma in selected healthcare occupations.

Aim 2. Assess associations between asthma outcomes and exposures to identify modifiable risk factors.

In order to accomplish the goal and aims of this project, NIOSH has developed a survey designed to collect information about work history, workplace exposures and asthma health from workers in the healthcare industry. Aim 1 of this project will be completed using data exclusively from this survey. While aim 2 will be completed using asthma outcome data from the survey and exposure data from the JEM developed from survey data and exposure data from previously environmental sampling at healthcare facilities.

Approximately 17,500 health care workers in the New York City area will be recruited for this study. NIOSH is partnering with the Service Employees International Union (SEIU) Local 1199 in New York City. The SEIU1199 Communications Center (CC) will be responsible for collecting survey data from union members by telephone interview. The goal is to conduct a cross-sectional epidemiologic survey of approximately 5,000 healthcare workers who are members of SEIU1199. Only health care workers whose job titles are in one of nine job titles will be recruited. These nine job titles include: certified nursing assistants (CNAs), central supply, environmental services, licensed practical nurses (LPNs), lab techs, operating room (OR) techs, registered nurses (RNs), respiratory therapists, and dental assistants. Furthermore, recruitment of health care workers will only be from hospitals and nursing homes.

Completion of the survey by SEIU1199 members will be done either online or over the telephone. After the initial recruitment period, SEIU1199 members will have approximately two weeks to complete the online survey. After this two week period, the SEIU1199 Communication Center will begin calling members who have not completed the online survey and attempt to complete the survey with them by telephone interview. NIOSH anticipates 20% of the responses to be made using the online survey and the remaining 80% to be by telephone interview.

Summary results of this study will be made available to SEIU1199 members who completed the survey through a letter mailed to their homes. Although NIOSH has partnered with SEIU119, results of this study will also be disseminated to other industry stakeholders including healthcare workers, researchers, clinicians, and professional societies and government agencies. The desired outcome of the dissemination efforts include healthcare workers learning about hazards in their work environment and becoming more prepared to participate in the development of strategies to minimize risk. Also, clinicians will learn how occupational exposures can impact the respiratory health of their patients who work in healthcare, which should improve the care they provide. In addition, manuscripts of results and conclusions will be drafted and published in peer reviewed journals.

The target sample size for this study is 5,000. Based on the SEIU1199 membership data, the percentage of eligible union members that fall into the targeted nine job categories is known. Therefore, a participant job-category distribution estimate can be made.

Completion of either the online or telephone survey will take approximately 30 minutes. It is estimated that the annualized burden will be 2,500 hours. There is no cost to respondents other than their time.

Type of respondents	Form name	No. of respondents	No. of responses per respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Certified Nursing Assistants	Online	297	1	30/60	149
	Telephone	1,188	1	30/60	594
Central Supply Workers	Online	8	1	30/60	4
	Telephone	34	1	30/60	17
Dental Assistants	Online	18	1	30/60	9
	Telephone	71	1	30/60	36
Environmental Service Workers	Online	228	1	30/60	114
	Telephone	914	1	30/60	457
Licensed Practical Nurses	Online	140	1	30/60	70
	Telephone	559	1	30/60	280
Lab Technicians	Online	77	1	30/60	39
	Telephone	310	1	30/60	155
Operating Room Technicians	Online	27	1	30/60	14
	Telephone	109	1	30/60	55
Registered Nurses	Online	168	1	30/60	84
	Telephone	672	1	30/60	336
Respiratory Therapists	Online	36	1	30/60	18
	Telephone	144	1	30/60	72
Total					2,500

Kimberly S. Lane,

Deputy Director, Office of Science Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–14390 Filed 6–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1984.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Patient Navigator Outreach and Chronic Disease Prevention Demonstration Program (OMB No. 0915–0346)—[Revision]

This is a revision to a data collection previously approved for the Patient Navigator Outreach and Chronic Disease Prevention Demonstration Program (PNDP). Authorized under section 340A of the Public Health Service Act, as amended by section 3510 of the Affordable Care Act, PNDP supports the development and operation of projects to provide patient navigator services to improve health outcomes for individuals with cancer and other chronic diseases, with a specific emphasis on health disparities populations. Award recipients are to use grant funds to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve in order to facilitate the care of those who are at risk for or who have cancer or other chronic diseases, including conducting outreach to health disparities populations. As authorized by the statute, an evaluation of the outcomes of the program must be submitted to Congress. The purpose of these data collection instruments, including navigated patient data intake, VR–12 health status, patient navigator survey, patient navigator encounter/tracking log, patient medical record and clinic data, clinic rates (baseline measures), quarterly reports, and focus group discussion guides is to provide data to inform and support the Report to Congress for: The quantitative analysis of baseline and benchmark measures; aggregate information about the patients served and program activities; and recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas. A single instrument, the Client Opinion Form, has been added to this collection, resulting in an increase of 94.77 burden hours.

The annual estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Navigated Patient Data Intake Form	4,827	1.00	4,827.00	0.500	2,413.50
VR–12 Health Status Form	4,827	2.00	9,654.00	0.120	1,158.48
Client Opinion Form	810	1.00	810.00	0.117	94.77
Sub Total-Patient Burden	*4,827*				*3,666.75*
Patient Navigator Survey	46	1.00	46.00	0.200	9.20
Patient Navigator Encounter/Target Services Log	46	629.60	28,961.60	0.250	7,240.40
Patient Navigator Focus Group	46	1.00	46.00	1.00	46.00
Sub Total-Patient Navigator Burden	*46*				*7,295.60*
Patient Medical Record and Clinic Data	10	482.70	4,827.00	0.170	820.59
Annual Clinic-Wide Clinical Performance Measures Report	5	1.00	5.00	8.000	40.00

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Patient Navigator Cultural Competency Checklist	10	4.60	46.00	1.170	53.82
Patient Navigator/Health System Administrator Focus Group	50	1.00	50.00	1.000	50.00
Grantee Health Care Provider Focus Group	30	1.00	30.00	1.000	30.00
Social Service Provider Group	50	1.00	50.00	1.000	50.00
Quarterly Report	10	4.00	40.00	1.000	40.00
Sub Total-Grantee Burden	*165*				*1,084.41*
Totals	5,038		49,392.6		12,046.76

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: June 7, 2012.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2012–14324 Filed 6–12–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Clinical Mythteries: A Video Game About Clinical Trials

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Clinical Mythteries: A Video Game About Clinical Trials. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* New England Research Institutes as a contractor for the National Heart Lung and Blood Institute is planning to create an engaging, informational ''serious video game'' for adolescents about clinical studies which: (1) Incorporates core learning objectives; and (2) dispels misconceptions. Two types of information collection are planned:

- usability testing to understand game-play/usability. This information will be collected by focus group and will be digitally recorded 90 minute groups.
- A pre/post randomized trial to measure change in knowledge. This information will be collected electronically through on-line questionnaire.

The game will be incorporated with a larger initiative to provide information about clinical research (*http://www.nhlbi.nih.gov/childrenandclinicalstudies/index.php*). *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* Adolescents—aged 8–14.

The annual reporting burden is as follows: *Estimated Number of Respondents:* 6,148; Estimated *Number of Responses per Respondent:* 1; Average *Burden Hours Per Response: 1.321;* and *Estimated Total Annual Burden Hours Requested:* 370. The annualized cost to respondents is estimated at: $3,700. There are no Capital Costs to report. The Operating Costs to collect this information is estimated at $38,642.

Note: The following table should be the same table from section A.12 of the supporting statement.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adolescents—Wave one	30	1	1.5	45
Adolescents—Wave two	250	1	1.3	325
Total				370

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Victoria Pemberton, RNC, MS, CCRC, National Heart, Lung and Blood Institute, 6701 Rockledge Drive, Rm. 8109, Bethesda, MD 20892, or call non-toll-free number (301) 435–0510 or Email your request, including your address to: *pembertonv@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: May 30, 2012.

Michael Lauer,

Director, Division of Cardiovascular Diseases, National Heart, Lung, and Blood Institute, NIH.

Dated: June 4, 2012.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2012–14437 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Process Evaluation of the Early Independence Award (EIA) Program

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of Strategic Coordination (OSC), Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Process Evaluation of the Early Independence Award (EIA) Program. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This study will assess the EIA program operations. The primary objectives of the study are to (1) assess if the requests for applications (RFAs) are meeting the needs of applicants, (2) document the selection process, (3) document EIA program operations, (4) assess the progress being made by the Early Independence Principal Investigators, and (5) assess the support provided by the Host Institutions to the Early Independence Principal Investigators.

The findings will provide valuable information concerning (1) aspects of the program that could be revised or improved, (2) progress made by the Early Independence Principal Investigators, and (3) implementation of the program at Host Institutions.

Frequency of Response: On occasion. *Affected Public:* None. *Type of Respondents:* Applicants, reviewers, and awardees. The annual reporting burden is as follows: *Estimated Number of Respondents:* 390; *Estimated Number of Responses per Respondent:* 1; Average *Burden Hours per Response:* 4*;* and *Estimated Total Annual Burden Hours Requested:* 158. The annualized cost to respondents is estimated at: $9,774. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

A.12.1—ANNUALIZED ESTIMATE OF HOUR BURDEN

Type of respondents	Number of respondents (average) [1]	Frequency of response	Average time per response (min.)	Annual hour burden [2]
Editorial Board Reviewers (paper survey)	15	1	15	4
Applicants—Principal Investigators (online survey)	150	1	15	38
Applicants—Officials of Host Institutions (online survey)	150	1	15	38
Awardees—Early Independence Principal Investigator (paper survey—beginning of 1st year of award)	12	1	30	6
Awardees—Early Independence Principal Investigator (phone interview—end of 1st year of award)	12	1	60	12
Awardees—Early Independence Principal Investigator (online survey—end of 2nd and 3rd year of award)	24	1	60	24
Awardees—Point of Contact at Host Institution (phone interview—end of 1st year of award)	12	1	60	12
Awardees—Point of Contact at Host Institution (online survey—end of 2nd and 3rd year of award)	24	1	60	24
Total	.....	.....	.....	158

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Ravi Basavappa, OSC, DPCPSI, Office of the Director, NIH, 1 Center Drive, MSC 0189, Building 1, Room 203, Bethesda, MD 20892–0189; telephone 301–594–8190; fax 301–435–7268; or email your request, including your address, to *earlyindependence@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: June 6, 2012.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2012–14464 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Opinions and Perspectives About the Current Blood Donation Policy for Men Who Have Sex With Men

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute

(NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** in Volume 77 on February 23, 2012, page 10756, and allowed 60-days for public comment. Six written comments were received, one of which was shared by two signatories. One comment was a personal opinion regarding the current federal blood donation policy for men who have sex with men. Two of the written comments supported the study goals and design as proposed. Three of the written comments suggested changes to some of the questions, or asked whether the scope of the study could be expanded. As a result, content pertaining to the sexual histories of survey respondents was expanded to inform the broader context for the current policy for men who have sex with men. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Opinions and Perspectives about the Current Blood Donation Policy for Men Who Have Sex with Men. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The current policy for blood donation in the U.S. with respect to men who have sex with men (MSM) is that any man who discloses having had sex with another man since 1977 is deferred indefinitely from donating. However, data from donors who have tested disease marker positive and were interviewed regarding potential risk factors suggest that some individuals continue to donate blood without disclosing MSM activity in contravention of the policy. In the 1980s there were surveillance studies of risk factors among donors who were determined to be HIV positive in pre-donation testing: Results indicated MSM behavior to be a risk factor for 56% of male donors. In addition, as part of the Retrovirus Epidemiology Donor Study (REDS), when anonymously surveyed by paper and pencil mailed surveys, 1.2% of male blood donors reported MSM behavior.

In a 2007 study conducted in Sweden, 19% of 334 MSM who responded to a survey that was included in a monthly publication targeted to the Lesbian, Gay, Bisexual and Transgender (LGBT) community reported donating blood at least one-time since 1985. The authors suggested that MSM donors may be motivated by perceived discrimination, particularly younger MSM.

Recent publications from the United Kingdom have reported what are likely the only population-based assessment of non-compliance with a similar restriction on blood donation for the MSM population as in the U.S.; this study was conducted in 2009 and 2010 and also estimated opinions about and self-reported intended compliance with the MSM deferral policy in place in the United Kingdom at that time. Note, the policy in the United Kingdom was modified in November 2011 and MSM in the United Kingdom are now allowed to donate if they have not been sexually active for a one-year period before donation.

Data similar to those collected in Sweden and the United Kingdom are not available for the U.S. Potential changes to the current MSM policy for blood donation requires additional data, including information about motivating factors and compliance with the current MSM policy or a modified policy in the MSM population and in current blood donors. Speculative analyses have been conducted but do not directly address important considerations related to this policy such as the current level of compliance (in the MSM population) and non-compliance (in the blood donor population). While many scientists and ethicists have expressed opinions in support or against modification of the current MSM policy for blood donation, there is a lack of data that directly addresses important aspects of this policy debate. The proposed study will build off the studies conducted in Sweden and the United Kingdom and will collect directly relevant information on this topic by estimating the prevalence of compliance and non-compliance with the current MSM policy and assessing motivations for blood donation in the U.S. MSM population. Three research aims drive this study's protocols to provide valuable evidence on the motivations and compliance behaviors in the MSM and blood donor populations. The four geographic areas where the study will be conducted include the State of Connecticut, Western Pennsylvania, Southern Wisconsin, and the Bay Area of California.

The first aim seeks to assess opinions about and common themes within the MSM population with respect to blood donation and the current MSM policy. Specifically, within a population of self-identified MSM in the U.S., what common themes can be identified regarding knowledge and opinions of current blood donation eligibility, and would opinions, including self-reported intended compliance, improve if the current MSM policy were changed to a deferral of a defined shorter duration? Another objective is to use what is learned in the focus groups to help select proper venues for identifying MSM who might be interested in participating in a comprehensive survey to assess compliance and non-compliance with the current MSM policy (see second aim).

The second aim seeks to assess compliance and non-compliance in the MSM population with the current MSM blood donation policy by confidentially surveying two populations. One survey will be conducted in the MSM community to provide better estimates of compliance and non-compliance with the current policy and a second survey will be conducted in male blood donors to evaluate how frequently men who have had sex with another man since 1977 are donating blood. The surveys will be conducted using an instrument that includes common content to maximize the comparability of the responses. Both surveys will be conducted using Internet-based techniques and currently available software (SurveyGizmo, *www.surveygizmo.com*).

The third aim seeks to assess motivations for donating in the group of self-identified MSM who are active blood donors in the U.S. Participants from the four geographic areas who report donating blood or the intention to donate will be asked to participate in confidential qualitative telephone interviews to identify their reasons for donating or wanting to donate blood.

Frequency of Response: Once. *Affected Public:* Individuals. *Type of Respondents:* Males 18 years old or older. The annual reporting burden is as follows: *Estimated Number of Respondents:* 4864; *Estimated Number of Responses per Respondent:* 1 per respondent for 4844 respondents and 2 per respondent for 20 respondents; *Average Burden of Hours per Response:* 1.5 hours for Aim 1, 0.33 hour for Aim 2, and 1.0 hour for Aim 3; and *Estimated Total Annual Burden Hours Requested:* 1,700. The annualized total cost to all respondents is estimated at: $13,600 (based on $8.00 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Study aims	Estimated annual number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Aim 1—Focus Groups	64	1	1.5	96
Aim 2.1—Web interview	1,600	1	0.33	528
Aim 2.2—Web interview	3,200	1	0.33	1056
Aim 3	20*	1	1	20

* Aim 3 respondents are a subset of the respondents included in Aim 2.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information collected; and (4) 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 or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call 301–435–0065, or Email your request to: *glynnsa@nhlbi.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 29, 2012.

Keith Hoots,

Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH.

Dated: June 4, 2012.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2012–14462 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center 2013 Strategic Plan

SUMMARY: The Fogarty International Center (FIC), National Institutes of Health (NIH) is updating its strategic plan. To anticipate and set priorities for global health research and research training, FIC requests input from scientists, the general public, and interested parties. The goal of this strategic planning process is to identify current and future needs and directions for global health research and research training. The existing FIC strategic plan can be viewed at: *http://www.fic.nih.gov/About/Pages/Strategic-Plan.aspx.*

DATES: Submit responses to the Division of International Science Policy, Planning and Evaluation, FIC on or before July 6, 2012.

Address and for Further Information Contact: Please submit written responses to Dr. Rachel Sturke, Evaluation Officer, Division of International Science Policy, Planning and Evaluation, Fogarty International Center, National Institutes of Health. Dr. Sturke may also be reached by email at *FICStratPlan@mail.nih.gov,* or through our web address: *http://www.fic.nih.gov*.

SUPPLEMENTARY INFORMATION: The Fogarty International Center is dedicated to advancing the mission of the National Institutes of Health by supporting and facilitating global health research conducted by U.S. and international investigators, building partnerships between health research institutions in the U.S. and abroad, and training the next generation of scientists to address global health needs.

The Fogarty International Center supports basic, clinical and applied research and training for U.S. and foreign investigators working in the developing world. Since its formation more than 40 years ago, Fogarty has served as a bridge between NIH and the greater global health community—facilitating exchanges among investigators, providing training opportunities and supporting promising research initiatives in developing countries.

In order to inform its 2013 Strategic Plan, FIC specifically, but not exclusively, requests comments on the following topics:

(1) What are specific gaps, needs, and opportunities in global health research that should be addressed by Fogarty in the next 5–10 years?

(2) What are specific gaps, needs, and opportunities in global health research training that should be addressed by Fogarty in the next 5–10 years?

(3) Are there specific gaps and/or opportunities related to the use of information and communication technologies (ICT), mobile technologies (mHealth), and distance learning in research and research training?

(4) What are specific gaps, needs, and opportunities related to research and research training in chronic, non-communicable diseases?

(5) What are specific gaps, needs, and opportunities related to research and research training in infectious diseases?

(6) How can Fogarty strengthen the research-enabling environment at research institutions in low and middle income countries?

(7) How can Fogarty encourage more collaboration in research and research training among institutions in low and middle income countries?

Dated: May 23, 2012.

Dexter Collins,

Executive Officer, Fogarty International Center, National Institutes of Health.

[FR Doc. 2012–14465 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse—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 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel SecuRX: Preventing Prescription Drug Diversion (5560).

Date: June 28, 2012.

Time: 9:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, E-Tools for Extending the Reach of Preventative Interventions (5567).

Date: June 28, 2012.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS).

Dated: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14451 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Development of Tools to Explore the Synaptome (R21) SEP.

Date: June 20, 2012.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca C Steiner, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Pilot Studies PAR [1].

Date: June 27, 2012.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Pilot Studies PAR [2].

Date: June 27, 2012.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Services Conflicts.

Date: July 9, 2012.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; HIV/AIDS Interventions and Services.

Date: July 13, 2012.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Interventions Conflicts and Eating Disorders.

Date: July 24, 2012.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14459 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Center for Scientific Review Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Center for Scientific Review Advisory Council.

Date: June 21, 2012.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: Discuss NIH Request for Information (RFI): Input on Proposed Modifications of the Biographical Sketch Used in NIH Grant Applications (NOT–OD–12–115).

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Katherine Bent, Ph.D., Senior Advisor to the Director, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, 301–435–0695, *bentkn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the Request for Information.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(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: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14481 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational, and Molecular Biology.

Date: July 11, 2012.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: General Services Administration (GSA), 2200 Crystal Drive, Arlington, VA 22202.

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Asthma, Lung Immune Function, and Cystic Fibrosis.

Date: July 11, 2012.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Everett E Sinnett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Molecular and Cellular Neuroscience, Development and Aging Biology.

Date: July 12, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Infectious Agent Detection/Diagnostics, Food Safety, Sterilization/Disinfection and Bioremediation.

Date: July 12–13, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Long Beach Renaissance (LGBRN), 111 East Ocean Boulevard, Long Beach, CA 90802.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases and Microbiology.

Date: July 12–13, 2012.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Blvd., Long Beach, CA 90802.

Contact Person: Alexander D Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Neuroscience AREA Grant Applications.

Date: July 12–13, 2012.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

Date: July 12, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, md 20892–7814, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pathogenic Viruses.

Date: July 12, 2012.

Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Richard G Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational, and Molecular Biology.
Date: July 12, 2012.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: General Services Administration, 2000 Crystal Drive, Arlington, VA 22202.
Contact Person: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR11–304: Pediatric Formulations and Drug Delivery.
Date: July 12, 2012.
Time: 1:00 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Health Services, Informatics, Literacy and Communication.
Date: July 13, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topic: Metabolic Disease.
Date: July 13, 2012.
Time: 10:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA: Infectious Diseases and Microbiology.
Date: July 13, 2012.
Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Long Beach Hotel, 111 East Ocean Blvd., Long Beach, CA 90802.
Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genetic Variation.
Date: July 13, 2012.
Time: 12:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epilepsy and Ataxia.
Date: July 13, 2012.
Time: 12:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: James P Harwood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *harwoodj@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: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14480 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of Minority Biomedical Research Grant Applications.
Date: June 28, 2012.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An12, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rebecca H. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14478 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Mechanisms of Drug Disposition During Pregnancy.

Date: July 9, 2012.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892 301–435–1169, *greenwep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Nutrition and Reproduction.

Date: July 10–11, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892 (301) 402–6297, *gravesr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Lung Injury Member Conflicts.

Date: July 10–11, 2012.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892 301–435–0696, *barnasg@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Prions.

Date: July 10, 2012.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892 301–402–4454, *kostrikr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Alzheimer's Disease and Hippocampal Function.

Date: July 10, 2012.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892 (301) 237–9838, *bhagavas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: July 10, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892 (301) 435–2359, *shayiqr@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: June 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14474 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee; Ad hoc Clinical Trials and Strategic Planning Subcommittee.

Date: June 29, 2012.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: Discussion on the function of the NCI Clinical Trials Network (NCTN) Working Group. Dial in number: 1–866–244–8528 and Passcode: 530855.

Place: National Institutes of Health, 6120 Executive Blvd., Suite 300, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheila A. Prindiville, M.D., MPH, Director, Coordinating Center for Clinical Trials, Office of the Director, National Cancer Institute, National Institutes of Health, 6120 Executive Blvd., 3rd Floor Suite, Bethesda, MD 20892, 301–451–5048, *prindivs@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14463 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health, Special Emphasis Panel, NIMH ''Small Molecule Repository.''

Date: June 28, 2012.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14461 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases, Special Emphasis Panel; Long Term Follow-up of Preserve Trial Cohort.

Date: July 11, 2012.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14453 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Member Conflicts: Sensory Neuroscience.

Date: July 10–11, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AIDS Discovery and Development of Therapeutics.

Date: July 10, 2012.

Time: 6:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis, Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Small Business: Diabetes and Reproduction.

Date: July 10, 2012.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Small Business: Diabetes and Obesity.

Date: July 11, 2012.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: AIDS and Related Research, Integrated Review Group, AIDS Clinical Studies and Epidemiology Study Section.

Date: July 12, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Hilary D Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, PAR Panel: Adverse Metabolic Side Effects of Second Generation Psychotropic Medications (PAR–08–160).

Date: July 12, 2012.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Robert Garofalo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6156,

MSC 7892, Bethesda, MD 20892, 301–435–1043, *garofalors@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group, HIV/AIDS Vaccines Study Section.

Date: July 13, 2012.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@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: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14427 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Synthetic and Biological Chemistry A.

Date: June 25, 2012.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nuria E Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301)451–1323, *assamunu@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: June 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14434 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiac Ion Channels, Arrhythmas, Ischemia and Sudden Death.

Date: July 2, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Olga A Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Reproductive Biology.

Date: July 3, 2012.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Genes, Genomes, and Genetics.

Date: July 5–10, 2012.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Dominique Lorang-Leins, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5108, MSC 7766, Bethesda, MD 20892, 301–435–2204, *Lorangd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: July 5, 2012.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, *luow@csr.nih.gov.*

(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: June 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14433 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases, Special Emphasis Panel; Program Project, Supplement Review.

Date: June 29, 2012.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Charles H Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20817, 301–594–4952, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: June 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14432 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Ligand Receptor Interactions of Plasmodium.

Date: June 19, 2012.

Time: 12:01 a.m. to 11:59 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Richard G Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–402–4454, *kostrikr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: June 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14431 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Musculoskeletal, Oral and Skin Systems.

Date: July 6, 2012.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th and K Streets NW., Washington, DC 20006.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: CounterAct-Countermeasures Against Chemical Threats.

Date: July 9, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Geoffrey G Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.

Date: July 9, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Kenneth A Roebuck, Ph.D. Scientific Review Officer Center for Scientific Review National Institutes of Health 6701 Rockledge Drive, Room 5214, MSC 7852 Bethesda, MD 20892 (301) 435–1166 *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic and Skeletal Biology.

Date: July 9, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Baljit S Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, AREA: Bioanalytical, Imaging, and Instrumentation.

Date: July 9–10, 2012.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC, Bethesda, MD 20892, 301–435–1047, *dennis.hlasta@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Spinal Cord Injury and Stroke.

Date: July 9, 2012.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@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: June 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14430 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, N01DA–12–2229: Data, Statistics, and Clinical Trial Support for NIDA.

Date: June 14, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 7, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–14445 Filed 6–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Biographic Information, Extension, Without Change of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Form G–325; G–325A; G–325B; G–325C.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 13, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Acting Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted to DHS via email at *uscisfrcomment@dhs.gov* referencing the OMB Control Number 1615–0008 in the subject box or via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2005–0024.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Biographic Information.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* G–325, Biographic Information; G–325A, Biographic Information; G–325B, Biographic Information; G–325C, Biographic Information.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. These forms are used when it is necessary to check other agency records on applications or petitions submitted by applicants for certain benefits under the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,461,188 respondents. The estimated average burden per response for the G–325 is .25 hours, for the G–325A is .25 hours, for the G–325B is .416 hours, and for the G–325C is .25 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 35,000 Hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW.,

Washington, DC 20529, Telephone number 202–272–8377.

Dated: June 6, 2012.

Laura Dawkins,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–14347 Filed 6–12–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–601, Revision of a Currently Approved Information Collection; Correction

ACTION: 30-Day Notice of Information Collection Under Review: Form I–601, Application for Waiver of Grounds of Inadmissibility; Correction.

On June 7, 2012 the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) published a 30-day information collection notice in the **Federal Register** at 77 FR 33759, allowing for an additional 30-day public comment period in connection with an information collection request it will be submitting to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

In the 30-day information collection notice, USCIS inadvertently indicated that it did not receive comments in connection with the 60-day information collection notice it had previously published in the **Federal Register** on February 28, 2012, at 77 FR 12071, allowing for a 60-day public comment period.

USCIS is now correcting that notice to read that ''USCIS received one comment in connection with that publication.'' This correction does not change the July 9, 2012, commenting period closing date.

Dated: June 8, 2012.

Laura Dawkins,

Acting Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–14470 Filed 6–12–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act; Extension, Without Change of a Currently Approved Collection

ACTION: 30-Day notice of information collection under review: Form I–612, Application for waiver of the foreign residence requirement of section 212(e) of the Immigration and Nationality Act.

SUMMARY: The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on March 23, 2012, at 77 FR 17085, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 13, 2012. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Avenue, Washington, DC 20529–2020. Comments may also be submitted to DHS via email at *uscisfr.comment@dhs.gov,* to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov,* or via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2008–0012. When submitting comments by email, please make sure to add OMB Control Number 1615–0030 in the subject box.

All submissions received must include the agency name, OMB Control Number and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection Request:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security*

sponsoring the collection: I–612; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; This form will be used by USCIS to determine eligibility for a waiver for those aliens who believe that compliance with foreign residence requirements would impose exceptional hardship on his or her spouse or child who is a citizen of the United States, or a lawful permanent resident; or that returning to the country of his or her nationality or last permanent residence would subject him or her to persecution on account of race, religion, or political opinion.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,300 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 433 Hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–1470.

Dated: June 8, 2012.

Laura Dawkins,

Acting Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–14428 Filed 6–12–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Wildland Fire Executive Council Meeting Schedule

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Meetings.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., 2, the U.S. Department of the Interior, Office of the Secretary, Wildland Fire Executive Council (WFEC) will meet as indicated below.

DATES: The meetings will be held on the first and third Friday of each month from 10 a.m. to 2 p.m. Eastern Time as follows: July 6, 2012; July 20, 2012; August 3, 2012; August 17, 2012; September 7, 2012 and September 21, 2012.

ADDRESSES: The meetings will be held from 10 a.m. to 2 p.m. Eastern Time in the McArdle Room (First Floor Conference Room) in the Yates Federal Building, USDA Forest Service Headquarters, 1400 Independence Ave. SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Roy Johnson, Designated Federal Officer, 300 E Mallard Drive, Suite 170, Boise, Idaho 83706; telephone (208) 334–1550; fax (208) 334–1549; or email *Roy_Johnson@ios.doi.gov*.

SUPPLEMENTARY INFORMATION: The WFEC is established as a discretionary advisory committee under the authorities of the Secretary of the Interior and Secretary of Agriculture, in furtherance of 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et. seq*), the National Wildlife Refuge System improvement Act of 1997 (16 U.S.C. 668dd–668ee), and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et. seq*) and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2. The Secretary of the Interior and Secretary of Agriculture certify that the formation of the WFEC is necessary and is in the public interest.

The purpose of the WFEC is to provide advice on coordinated national-level wildland fire policy and to provide leadership, direction, and program oversight in support of the Wildland Fire Leadership Council. Questions related to the WFEC should be directed to Roy Johnson (Designated Federal Officer) at *Roy_Johnson@ios.doi.gov* or (208) 334–1550 or 300 E. Mallard Drive, Suite 170, Boise, Idaho 83706–6648.

Meeting Agenda: The meeting agenda will include: (1) Welcome and introduction of Council members; (2) Overview of prior meeting and action tracking; (3) Members' round robin to share information and identify key issues to be addressed; (4) Wildland Fire Management Cohesive Strategy; (5) Wildland Fire Issues; (6) Council Members' review and discussion of sub-committee activities; (7) Future Council activities; (8) Public comments which will be scheduled for 11:30 on each agenda; (9) and closing remarks. Participation is open to the public.

Public Input: All WFEC meetings are open to the public. Members of the public who wish to participate must notify Shari Eckhoff at *Shari_Eckhoff@ios.doi.gov* no later than the Friday preceding the meeting. Those who are not committee members and wish to present oral statements or obtain information should contact Shari Eckhoff via email no later than the Friday preceding the meeting. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Questions about the agenda or written comments may be emailed or submitted by U.S. Mail to: Department of the Interior, Office of the Secretary, Office of Wildland Fire, Attention: Shari Eckhoff, 300 E. Mallard Drive, Suite 170, Boise, Idaho 83706–6648. WFEC requests that written comments be received by the Friday preceding the scheduled meeting. Attendance is open to the public, but limited space is available. Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Eckhoff at (202) 527–0133 at least seven calendar days prior to the meeting.

Dated: June 6, 2012.

Roy Johnson,

Designated Federal Officer.

[FR Doc. 2012–14397 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–J4–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO35000.L14300000.FR0000]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from applicants for a land patent under the Color-of-Title Act. The Office of Management and Budget (OMB) has assigned control number 1004–0029 to this information collection.

DATES: Submit comments on the proposed information collection by August 13, 2012.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C

Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0029'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, at 202–912–7335. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Mr. Holdren.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Color-of-Title Application (43 CFR Subparts 2540 and 2541).

Forms:

- Form 2540–1, Color-of-Title Application;
- Form 2540–2, Color-of-Title Conveyances Affecting Color or Claim of Title; and
- Form 2540–3, Color-of-Title Tax Levy and Payment Record.

OMB Control Number: 1004–0029.

Abstract: The Color-of-Title Act (43 U.S.C. 1068, 1068a, and 1068b) provides for the issuance of a land patent to a tract of public land of up to 160 acres, where the claimant shows peaceful, adverse possession of the tract in good faith for more than 20 years, as well as sufficient improvement or cultivation of the land. The information covered in this submission enables the BLM to determine whether or not such a claimant has made a showing that is sufficient under the pertinent statutory and regulatory criteria.

Frequency of Collection: Once.

Estimated Number and Description of Respondents Annually: 8 individuals, 1 group, and 1 association.

Estimated Reporting and Recordkeeping ''Hour'' Burden Annually: 30 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: $100.

The following table details the individual components and respective hour burdens of this information collection request:

Type of response A.	Number of responses B.	Time per response C.	Total hours (column B × column C) D.
Color-of-Title Application/Individuals	8	3	24
Color-of-Title Application/Groups	1	3	3
Color-of-Title Application/Corporations	1	3	3
Totals	10		30

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.

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2012–14494 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO35000.L14300000.ES0000]

Renewal of Approved Information Collection; OMB Control No. 1004–0012

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from applicants for land for recreation or public purposes. The Office of Management and Budget (OMB) has assigned control number 1004–0012 to this information collection.

DATES: Submit comments on the proposed information collection by August 13, 2012.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: *Jean_Sonneman@blm.gov.*

Please indicate ''Attn: 1004–0012'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren at 202–912–7335. Persons who use a telecommunication device for the

deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Mr. Holdren.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Application for Land for Recreation or Public Purposes (43 CFR 2740 and 2912).

Forms:

• Form 2740–1, Application for Land for Recreation or Public Purposes.

OMB Control Number: 1004–0012.

Abstract: The Bureau of Land Management (BLM) uses the information collection to decide whether or not to lease or sell certain public lands to applicants under the Recreation and Purposes Act, 43 U.S.C. 869 to 869–4. The Act authorizes the Secretary of the Interior to lease or sell, for recreational or public purposes, certain public lands to State, Territory, county, and local governments; nonprofit corporations; and nonprofit associations.

Frequency of Collection: Once.

Estimated Number and Description of Respondents Annually: 21 State, Territory, country and local governments; 1 nonprofit association; and 1 nonprofit corporation.

Estimated Reporting and Recordkeeping ''Hour'' Burden Annually: 920 hours (40 hours per application).

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden Annually: $2,300 ($100 per application).

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.

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2012–14375 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957400–12–L14200000–BJ0000]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on the dates indicated.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management and the U. S. Forest Service, and are necessary for the management of resources. The lands surveyed are:

The plat representing the entire record of the survey of the subdivision of section 30, Township 32 North, Range 114 West, Sixth Principal Meridian, Wyoming, Group No. 847, was accepted February 27, 2012.

The plat and field notes representing the dependent resurvey of a portion of the Sixth Standard Parallel North through Ranges 95 and 96 West, a portion of the Twelfth Guide Meridian West through Township 24 North, between Ranges 96 and 97 West, the subdivisional lines, and the adjusted 1884 meanders of Bush Lake (dry) in sections 6 and 7, Township 24 North, Range 96 West, Sixth Principal Meridian, Wyoming, Group No. 826, was accepted February 27, 2012.

The plat and field notes representing the dependent resurvey of a portion of the east boundary, a portion of the north boundary, a portion of the subdivisional lines, Mineral Survey No. 519, and the subdivision of sections 1 and 2, Township 13 North, Range 79 West, Sixth Principal Meridian, Wyoming, Group No. 830, was accepted February 27, 2012.

The plat and field notes representing the dependent resurvey of portions of the east and north boundaries, a portion of the subdivisional lines, and the subdivision of section 1, Township 43 North, Range 82 West, Sixth Principal Meridian, Wyoming, Group No. 833, was accepted February 27, 2012.

The plat and field notes representing the dependent resurvey of a portion of the east boundary and portions of the subdivisional lines, Township 19 North, Range 107 West, Sixth Principal Meridian, Wyoming, Group No. 851, was accepted February 27, 2012.

The field notes representing the remonumentation of certain corners of the survey executed by A.V. Richards, south boundary of the Wyoming Territory in 1873, and Donnell Miller, subdivisions in 1899, Township 12 North, Range 83 West, Sixth Principal Meridian, Wyoming, Group No. 624, was accepted February 27, 2012.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines, and the metes-and-bounds survey of the Adobe Town Wilderness Study Area Boundary through sections 7 and 18, Township 13 North, Range 97 West, Sixth Principal Meridian, Wyoming, Group No. 839, was accepted April 23, 2012.

The supplemental plat showing amended lottings, Township 33 North, Range 109 West, Sixth Principal Meridian, Wyoming, Group No. 858, was accepted June 1, 2012 and is based upon the dependent resurvey plat of Township 33 North, Range 109 West, accepted October 31, 2007.

Copies of the preceding described plats and field notes are available to the public at a cost of $1.10 per page.

Dated: June 7, 2012.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 2012–14384 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000–BJ0000–LRCS42800800]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 13, 2012.

DATES: Protests of the survey must be filed before July 13, 2012 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Thomas Laakso, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5125 or (406) 896–5009,*tlaakso@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: This survey was executed at the request of the U.S. Army Corps of Engineers, Omaha District, and was necessary to determine federal interest lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 24 N., R. 40 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary, and a portion of the subdivisional lines, and the subdivision of sections 18 and 19, Township 24 North, Range 40 East, Principal Meridian, Montana, was accepted May 28, 2012.

We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2012–14388 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000–BJ0000–LRCS42800800]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on July 13, 2012.

DATES: Protests of the survey must be filed before July 13, 2012 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Thomas Laakso, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5125 or (406) 896–5009, *tlaakso@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: This survey was executed at the request of the U.S. Army Corps of Engineers, Omaha District, and was necessary to determine federal interest lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 24 N., R. 39 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 13 and 24, Township 24 North, Range 39 East, Principal Meridian, Montana, was accepted May 29, 2012. We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2012–14386 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA–051552, LLCAD0700 L51010000 FX0000 LVRWB10B3980]

Notice of Availability of the Record of Decision for the Ocotillo Express LLC's Ocotillo Wind Energy Facility and Associated California Desert Conservation Area Plan Amendment, Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Amendment to the California Desert Conservation Area (CDCA) Plan for the Ocotillo Wind Energy Facility (OWEF) to be located in the California Desert District near Imperial County, California. The Secretary of the Interior approved the ROD on May 11, 2012, which constitutes the final decision of the Department

ADDRESSES: Copies of the ROD/Approved Amendment to the CDCA Plan are available upon request from the Field Manager, BLM El Centro Field Office, 1661 S. 4th Street, El Centro, California 92243 and the BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553, or via the Internet at

the following Web site: *http://www.blm.gov/ca/st/en/fo/elcentro.html.*

FOR FURTHER INFORMATION CONTACT: Cedric Perry, BLM Project Manager, telephone (951) 697–5388; address 22835 Calle San Juan De Los Lagos, Moreno Valley, CA 92553; email *Cedric_Perry@ca.blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (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: Pattern Energy, Inc., through its wholly owned subsidiary, Ocotillo Express LLC, filed right-of-way (ROW) application CACA–51552 for the OWEF. The project as originally proposed would have consisted of 155 wind turbines (1.6 to 3.0 MW each) on 12,436 acres of predominately BLM-managed lands with a generating capacity of up to 465 MW and the following ancillary facilities; a substation; administration, operations and maintenance facilities; transmission lines; and temporary construction lay down areas. The project site is located west of the city of El Centro in Imperial County, California.

The project site is in the California Desert District within the planning boundary of the CDCA Plan, which is the applicable Resource Management Plan for the project site and surrounding areas. The CDCA Plan, while recognizing the potential compatibility of wind energy generation facilities with other uses on public lands, requires that all sites associated with power generation or transmission not already identified in the Plan be considered through the BLM's land use plan amendment process. As a result, in connection with its approval of a ROW grant for the OWEF, the BLM had to amend the CDCA Plan to recognize the project site as suitable for wind energy development. The approved Amendment to the CDCA Plan specifically amends the CDCA Plan to make such a determination.

The BLM Preferred Alternative identified in the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) is the Refined Project, which involves the construction and operation of 112 wind turbines at the project site, with a generating capacity of up to 315 MW. The Refined Project eliminates 43 turbines that were analyzed under the Proposed Action in order to reduce effects to cultural resources. The Refined Project configuration is comprised of a subset of the turbine sites that are already part of the existing alternatives analyzed in the Final EIS/EIR. The Refined Project was approved by the ROD and will result in construction of the wind generation facility consisting of: up to 112 turbines with a generating capacity of 315 MW on approximately 10,151 acres of BLM-managed lands in Imperial Valley, California, and the following ancillary facilities: a substation; administration, operations and maintenance facilities; transmission lines; and temporary construction lay down areas.

With respect to the plan amendment, the publication of the Notice of Availability for the Final EIS/EIR on March 9, 2012 initiated a 30-day protest period on the proposed plan amendment, which concluded April 9, 2012. The BLM received 12 timely and complete written protests, each of which was resolved prior to the execution of the ROD. These protest resolutions are summarized in the Director's Protest Summary Report attached to the ROD. The proposed amendment to the CDCA Plan was not modified as a result of the protests received or their resolution. Simultaneously with the plan amendment protest period, the Governor of California conducted an expedited 30-day consistency review of the proposed CDCA Plan amendment to identify any inconsistencies with State or local plan, policies or programs; no inconsistencies were identified by the Governor's Office.

Because this decision is approved by the Secretary of the Interior, it is not subject to administrative appeal (43 CFR 4.410(a)(3)).

Authority: 40 CFR 1506.6.

Timothy Spisak,

Deputy Assistant Director, Bureau of Land Management.

[FR Doc. 2012–14376 Filed 6–12–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–0512–10399; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 19, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 28, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 23, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Placer County

California Granite Company, 5255 Pacific St., Rocklin, 12000375

Sacramento County

Shiloh Baptist Church, 3552 7th Ave., Sacramento, 12000376

COLORADO

Huerfano County

Montoya Ranch, 19176 CO 69, Farisita, 12000377

DELAWARE

New Castle County

Riverview Cemetery Company of Wilmington, Delaware, 3300 & 3117 N. Market St., Wilmington, 12000378

Sussex County

Tunnell—West House, 39 Central Ave., Ocean View, 12000379

DISTRICT OF COLUMBIA

District of Columbia

Park Road Courts, (Apartment Buildings in Washington, DC, MPS) 1346 Park Rd., NW., Washington, 12000380

GEORGIA

Baldwin County

Zattau, Dr. Charles and Louise, House, 290 Lakeside Dr., Milledgeville, 12000381

Montgomery County

McArthur, Willie T., Farm, 165 McArthur Rd., Ailey, 12000382

KANSAS

Butler County

Gish, Amos H., Building, 317 S. Main, Eldorado, 12000383

Dickinson County

Gordon, David R., House, 400 N. Cedar St., Abilene, 12000384

Miami County

Congregational Church, 315 6th St., Osawatomie, 12000385
Soldiers' Monument, NE corner of Main & 9th Sts., Osawatomie, 12000386

Osage County

Arvonia School, (Public Schools of Kansas MPS) S. 9th St., Lebo, 12000387
Calvinistic Methodist Church, 8090 W. 9th St., Lebo, 12000388

Sedgwick County

Battin Apartments Historic District, (Residential Resources of Wichita, Sedgwick County, Kansas 1870–1957 MPS) 1700 S. Elpyco Ave., Wichita, 12000389
Cudahy Packing Plant, 2300 N. Broadway St., Wichita, 12000390

OHIO

Cuyahoga County

Adams Bag Company Paper Mill and Sack Factory, 218 Cleveland St., Chagrin Falls, 12000391

Franklin County

Kilgour, Frederick G., House, 1415 Kirkley Rd., Upper Arlington, 12000392

Hamilton County

Sedamsville Village Historic District, Steiner, Delhi, & Fairbanks Aves., Sedam, & Edwin Sts., Cincinnati, 12000393

Lucas County

Riverview, 200 N. St. Clair St., 215 & 239 Summit St., Toledo, 12000394

Miami County

Newberry Township School, 4045 OH 721, Bradford, 12000395

PUERTO RICO

Guaynabo Municipality

Oficina de Telegrafo y Telefono, 1729 Jose E. Carazo, Guaynabo, 12000396

[FR Doc. 2012–14326 Filed 6–12–12; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–481 and 731–TA–1190 (Final)]

Crystalline Silicon Photovoltaic Cells and Modules From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–481 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1190 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of crystalline silicon photovoltaic cells and modules, provided for in subheadings 8501.31.80, 8501.61.00, 8507.20.80, and 8541.40.60 of the Harmonized Tariff Schedule of the United States.[1]

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of this investigation.

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of this investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this investigation; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by this investigation.''

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* May 25, 2012.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of crystalline silicon photovoltaic cells and modules, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). These investigations were requested in a petition filed on October 19, 2011, by Solar World Industries America, Hillsboro, OR.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in

section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 13, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on October 3, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 19, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 21, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 20, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 11, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 11, 2012. On October 30, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 1, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E–Filing, available on the Commission's web site at *http://edis.usitc.gov*.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 7, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–14323 Filed 6–12–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–848]

Certain Radio Frequency Integrated Circuits and Devices Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 15, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Peregrine Semiconductor Corporation of San Diego, California. Supplements were filed on February 16 and February 28, 2012. The complaint was amended on May 11, 2012. The complaint, as supplemented and amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain radio frequency integrated circuits and devices containing same by reason of infringement of certain claims of U.S. Patent No. 7,910,993 (''the '993 patent''); U.S. Patent No. 7,123,898 (''the '898 patent''); U.S. Patent No. 7,460,852 (''the '852 patent''); U.S. Patent No. 7,796,969 (''the '969 patent''); and U.S. Patent No. 7,860,499 (''the '499 patent''). The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist order.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 5, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain radio frequency integrated circuits and devices containing same that infringe one or more of claims 14–16, 23–25, 31, 32, and 37 of the '993 patent; claims 1–3, 5–7, and 15 of the '898 patent; 1–4, 7, 13, 14, 20, 22, 24, and 25 of the '852 patent; claims 6–8, 29, and 30 of the '969 patent; and claims 1, 3, 5, and 6 of the '499 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Peregrine Semiconductor Corporation, 9380 Carroll Park Drive, San Diego, CA 92121.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

RF Micro Devices, Inc., 7628 Thorndike Road, Greensboro, NC 27409–9421;

Motorola Mobility, Inc., 600 North US Highway 45, Libertyville, IL 60048;

HTC America, Inc., 13920 SE. Eastgate Way, Suite 400, Bellevue, WA 98005;

HTC Corporation, 23 Xinghua Road, Taoyuan County 330, Taiwan.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 7, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–14318 Filed 6–12–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–744]

Certain Mobile Devices, Associated Software, and Components Thereof Final Determination of Violation; Issuance of a Limited Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) by respondent Motorola Mobility, Inc. of Libertyville, Illinois (''Motorola'') in the above-captioned investigation. The Commission has issued a limited exclusion order directed to the infringing products of Motorola and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. 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 November 5, 2010, based on a complaint filed by Microsoft Corporation of Redmond, Washington (''Microsoft''). 75 FR 68379–80 (Nov. 5, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile devices, associated software, and components thereof by reason of infringement of U.S. Patent Nos. 5,579,517 (''the '517 patent''); 5,758,352 (''the '352 patent''); 6,621,746 (''the '746 patent''); 6,826,762 (''the '762 patent''); 6,909,910 (''the '910 patent''); 7,644,376 (''the '376 patent''); 5,664,133 (''the '133 patent''); 6,578,054 (''the '054 patent''); and 6,370,566 (''the '566 patent.'') Subsequently, the '517 and the '746 patents were terminated from the investigation. The notice of investigation, as amended, names Motorola Mobility, Inc. of Libertyville, Illinois and Motorola, Inc. of Schaumburg, Illinois as respondents. Motorola, Inc. n/k/a Motorola Solutions was terminated from the investigation

based on withdrawal of infringement allegations on July 12, 2011.

The presiding administrative law judge (''ALJ'') issued the final initial determination (''ID'') on violation in this investigation on December 20, 2011. He issued his recommended determination on remedy and bonding on the same day. The ALJ found that a violation of section 337 has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile devices, associated software, and components thereof containing same by reason of infringement of one or more of claims 1, 2, 5 and 6 of the '566 patent. Both Complainant and Respondent filed timely petitions for review of various portions of the final ID, as well as timely responses to the petitions.

The Commission determined to review various portions of the final ID and issued a Notice to that effect dated March 2, 2012. 77 FR 14043 (Mar. 8, 2012). In the Notice, the Commission also set a schedule for the filing of written submissions on the issues under review, including certain questions posed by the Commission, and on remedy, the public interest, and bonding. The parties have briefed, with initial and reply submissions, the issues under review and the issues of remedy, the public interest, and bonding. Public interest comments were also received from non-parties Association for Competitive Technology, Inc. and Google Inc.

On review, the Commission has determined as follows.

(1) To affirm with modifications the ALJ's determination that Microsoft met the economic prong of the domestic industry requirement with respect to all of the presently asserted patents in this investigation, *i.e.,* the '352 patent, the '762 patent, the '910 patent, the '376 patent, the '133 patent, the '054 patent, and the '566 patent;

(2) With respect to the ID's determination regarding the technical prong of the domestic industry requirement with respect to all of the presently asserted patents:

(a) To affirm with modifications the ALJ's determination that Microsoft failed to meet the technical prong of the domestic industry requirement with respect to the '054 patent;

(b) To affirm the ALJ's determination that Microsoft satisfied the technical prong of the domestic industry requirement with respect to the '566, '133, and '910 patents;

(c) To reverse the ALJ's determination that Microsoft failed to meet the technical prong of the domestic industry requirement with respect to the '352 patent;

(d) To affirm the ALJ's determination that Microsoft failed to meet the technical prong of the domestic industry requirement with respect to the '762 and '376 patents;

(3) To affirm with modifications the ALJ's determination that the asserted claims of the '566 patent are not invalid due to anticipation or obviousness;

(4) To reverse the ALJ's determination that Microsoft failed to carry its burden of showing that Motorola's accused products infringe the asserted claims of the '352 patent and determine that, based on the record, Microsoft proved by a preponderance of the evidence that Motorola's accused products directly infringe the '352 patent;

(5) To affirm the ALJ's determination that Microsoft failed to prove by a preponderance of the evidence that Motorola induced infringement of each of the '054, '762, '376, '133, and '910 patents, and to affirm with modifications the ALJ's determination that Microsoft failed to prove by a preponderance of the evidence that Motorola induced infringement of each of the '566 and '352 patents.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry for consumption of mobile devices, associated software and components thereof covered by claims 1, 2, 5, or 6 of the United States Patent No. 6,370,566 and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Motorola. The order provides an exception for service, repair, or replacement articles for use in servicing, repairing, or replacing mobile devices under warranty or insurance contract.

The Commission has further determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. 1337(d)(1)) do not preclude issuance of the limited exclusion order. Finally, the Commission determined that Motorola is required to post a bond set at a reasonable royalty rate in the amount of $0.33 per device entered for consumption during the period of Presidential review. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The Commission has therefore terminated this investigation. 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 sections 210.41–.42, 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.41–.42, 210.50).

By order of the Commission.

Issued: May 18, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–14321 Filed 6–12–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–814]

Certain Automotive GPS Navigation Systems, Components Thereof, and Products Containing Same Determination Not To Review ALJ Order Nos. 8 And 9; Termination of the Investigation Based on a Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') Order No. 8 denying a motion for a show cause order and an initial determination (''ID'') (Order No. 9) terminating the investigation based on complainant's withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, *Esq.,* Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3104. 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 November 23, 2011, based on a complaint filed by Beacon Navigation GmbH of Zug, Switzerland (''Beacon''). 76 FR 72443 (Nov. 23, 2011). 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 automotive GPS navigation systems, components thereof, and products containing the same by reason of infringement of certain claims of United States Patent Nos. 6,374,180; 6,178,380; 6,029,111; and 5,862,511.

The notice of investigation named as respondents Audi AG of Ingolstadt, Germany; Audi of America, Inc. of Auburn Hills, Michigan; Audi of America, LLC of Herndon, Virginia; Bayerische Motoren Werke AG of Munich, Germany; BMW of North America, LLC of Woodcliff Lake, New Jersey; BMW Manufacturing Co., LLC of Greer, South Carolina; Chrysler Group LLC of Auburn Hills, Michigan; Ford Motor Company of Dearborn, Michigan; General Motors Company of Detroit, Michigan; Honda Motor Co., Ltd. Of Tokyo, Japan; Honda North America, Inc. an American Honda Motor Co., Inc., both of Torrance, California; Honda Manufacturing of Alabama, LLC of Lincoln, Alabama; Honda Manufacturing of Indiana, LLC of Greensburg, Indiana; Honda of America Manufacturing, Inc. of Marysville, Ohio; Hyundai Motor Company of Seoul, South Korea; Hyundai Motor America of Fountain Valley, California; Hyundai Motor Manufacturing Alabama, LLC of Montgomery, Alabama; Kia Motors Corp. of Seoul, South Korea; Kia Motors America, Inc. of Irvine, California; Kia Motors Manufacturing Georgia, Inc. of West Point, Georgia; Mazda Motor Corporation of Hiroshima, Japan; Mazda Motor of America, Inc. of Irvine, California; Daimler AG of Stuttgart, Germany; Mercedes-Benz USA, LLC of Montvale, New Jersey; Mercedes-Benz U.S. International, Inc. of Vance, Alabama; Nissan Motor Co., Ltd. of Yokohama-shi, Japan; Nissan North America, Inc. of Franklin, Tennessee; Dr. Ing. H.c. F. Porsche AG of Stuttgart, Germany; Porsche Cars North America, Inc. of Atlanta, Georgia; Saab Automobile AB of Trollhattan, Sweden; Saab Cars North America, Inc. of Royal Oak, Michigan; Suzuki Motor Corporation of Hamamatsu City, Japan; American Suzuki Motor Corporation of Brea, California; Jaguar Land Rover North America, LLC of Mahwah, New Jersey; Jaguar Cars Limited of Coventry, United Kingdom; Land Rover of Warwickshire, United Kingdom; Toyota Motor Corporation of Toyota City, Japan; Toyota Motor North America, Inc. of Torrance, California; Toyota Motor Engineering & Manufacturing North America, Inc. of Erlanger, Kentucky; Toyota Motor Manufacturing, Indiana, Inc. of Princeton, Indiana; Toyota Motor Manufacturing, Kentucky, Inc. of Georgetown, Kentucky; Toyota Motor Manufacturing Mississippi, Inc. of Blue Springs, Mississippi; Volkswagen AG of Wolfsburg, Germany; Volkswagen Group of America, Inc. and Volkswagen Group of America Chattanooga Operations, LLC, both of Herndon, Virginia; Volvo Car Corporation of Goteborg, Sweden; and Volvo Cars of North America, LLC of Rockleigh, New Jersey.

On February 29, 2012, the Commission determined not to review an ID amending the complaint and notice of investigation to terminate General Motors Company from the investigation and replace it with General Motors LLC of Detroit, Michigan. 77 FR 13350 (Mar. 6, 2012).

Complainant filed a motion to withdraw its complaint on April 13, 2012. On April 20, 2012, the respondents stated that they did not oppose the motion to terminate, but requested that the motion not be granted until it was determined if Beacon violated Commission Rules 210.12(a)(9)(iii) and/or 210.4(c) concerning the veracity of licensing information in its complaint. On the same day, respondents filed a motion requesting that the ALJ sua sponte issue a show cause order directing Beacon and its counsel to (1) identify all licensees that Beacon and its counsel are currently aware of and knew of at the time the Complaint was filed, (2) provide details of Beacon's pre-filing investigation, and (3) show cause why Beacon did not violate Commission Rule 210.4(c) by identifying only MiTAC International Inc. (''MiTAC'') as a licensed entity.

On May 8, 2012, the ALJ issued an ID (Order No. 8) denying the motion for a sua sponte show cause order, as well as two other motions to recover from complainant costs incurred in preparing for cancelled depositions. On the same day, the ALJ issued Order No. 9, an ID granting complainant's motion to terminate the investigation based on a withdrawal of the complaint.

On May 15, 2012, several respondents filed a joint petition for review of both orders, arguing that there is a split in Commission precedent concerning the application of the safe harbor provision, which is at issue in Order 8. They petitioned for review of Order 9 to enable the Commission to grant the relief sought with respect to Order No. 8. Petitioners do not oppose termination of the investigation on any other ground. On May 22, 2012, the Commission investigative attorney and the complainant each filed a response in opposition to the petition.

Upon consideration of the petition and the responses thereto, the Commission has determined not to review either ALJ Order. The Commission does not agree that there is a split in Commission precedent regarding application of the safe harbor provision of 19 CFR 210.4(d)(1). The Commission investigations cited by petitioners each represent the exercise of discretion by the presiding ALJ in determining whether to issue a show cause order. *See Certain Point of Sale Terminals and Components Thereof,* Inv. No. 337–TA–524, Order No. 40 (April 11, 2005); *Certain Weather Stations and Components Thereof,* Inv. No. 337–TA–537, Order No. 8 (Oct. 12, 2005); and *Certain Insulin Delivery Devices,* Inv. No. 337–TA–572, Order No. 5 (Jan. 29, 2007).

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 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.21, 210.42).

By order of the Commission.

Issued: June 7, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–14325 Filed 6–12–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–12–016]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

DATES: Time and Date: June 20, 2012 at 9:15 a.m.

PLACE: Room 100, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–865–867 (Second Review)(Stainless Steel Butt-Weld Fittings from Italy, Malaysia, and the Philippines). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before June 29, 2012.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not

disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By Order of the Commission:

Issued: June 7, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–14491 Filed 6–11–12; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–12–017]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

DATES: *Time and Date:* June 14, 2012 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agendas for future meetings: None.

2. Minutes.

3. Ratification List.

4. Vote in Inv. Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 532–534, and 536 (Third Review) (Certain Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before June 28, 2012.

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By Order of the Commission.

Issued: June 7, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–14490 Filed 6–11–12; 11:15 am]

BILLING CODE 7020–02–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM). The meeting is open to the public.

DATES: The meeting will be held on June 25, 2012 from 10:00 a.m. to 11:30 a.m.

ADDRESSES: Capitol Visitor Center, Room SVC 212–10.

FOR FURTHER INFORMATION CONTACT: Richard H. Hunt, Director; Center for Legislative Archives; (202) 357–5350.

SUPPLEMENTARY INFORMATION:

Agenda

(1) Chair's opening remarks—Secretary of the Senate
(2) Recognition of Co-chair—Clerk of the House
(3) Recognition of the Archivist of the United States
(4) Approval of the minutes of the last meeting
(5) Discussion of on-going projects and activities
(6) Annual Report of the Center for Legislative Archives
(7) Other current issues and new business

Dated: June 7, 2012.

Patrice Little Murray,

Alternate Committee Management Officer.

[FR Doc. 2012–14466 Filed 6–12–12; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings

The National Science Board's Committee on Science and Engineering Indicators, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Tuesday, June 26, 2012, 11:00 a.m.–12:00 p.m. EDT.

SUBJECT MATTER: Discussion of a revised draft of the second policy Companion to *Science and Engineering Indicators 2012* on the topic of state funding of public research universities.

STATUS: Open.

LOCATION: This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A public listening room will be available for this teleconference meeting. All visitors must contact the Board Office [call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*] at least 24 hours prior to the teleconference for the public room number and to arrange for a visitor's badge. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Street entrance on the day of the teleconference to receive a visitor's badge.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/*. Point of contact for this meeting is: Lisa Nichols, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2012–14558 Filed 6–11–12; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings

The National Science Board's Committee on Science and Engineering Indicators, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Tuesday, July 10, 2012, 3:00 p.m.–4:00 p.m. EDT.

SUBJECT MATTER: Discussion of a revised draft of the second policy Companion to *Science and Engineering Indicators 2012* on the topic of state funding of public research universities.

STATUS: Open.

LOCATION: This meeting will be held by teleconference at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. A public listening room will be available for this teleconference meeting. All visitors must contact the Board Office [call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*] at least 24 hours prior to the teleconference for the

public room number and to arrange for a visitor's badge. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Street entrance on the day of the teleconference to receive a visitor's badge.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/*. Point of contact for this meeting is: Lisa Nichols, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2012–14560 Filed 6–11–12; 4:15 pm]

BILLING CODE 7555–01–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 July 13, 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 a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Robert A. Garrott, Permit Application: 2013–007, Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, MT 59715.

Activity for Which Permit Is Requested

Take, Enter Antarctic Specially Protected Areas, and Import into the U.S.A. The applicant plans to study the demographic consequences of environmental variability and individual heterogeneity in life-history tactics of Weddell seals in Erebus Bay, Antarctica. A breeding population of Weddell seals, a prominent Antarctic apex predator associated with fast ice, has been intensively studied in Erebus Bay at the southern extent of the Ross Sea since 1968. The study's broad objective is to evaluate how temporal variation in the marine environment affects a long-lived mammal's population dynamics. Up to 2,000 adult and pup Weddell seals will be approached to have their tags read. Smaller subsets of approximately 1,150 seals will be tagged or retagged, weighed, tissue sampled, and/or instrumented, then released. In addition, the applicant plans to salvage parts of dead animals encountered and remove vibrissae. The tissue samples will be collected from the margin of the rear flippers and will be imported into the U.S.A. for further study. DNA will be extracted from the samples and used to investigate individual heterogeneity.

The applicant plans to enter ASPA 137–North-west White Island twice annually to census and tag seals in the isolated colony. They also plan to enter ASPA 155–Cape Evans, ASPA 157 Backdoor Bay, Cape Royds, ASPA 158–Hut Point, and ASPA 161–Terra Nova Bay should any of the study's seals should haul out in the those areas.

Location

Erebus Bay, Ross Island vicinity; ASPA 137–North-west White Island; ASPA 155–Cape Evans; ASPA 157 Backdoor Bay, Cape Royds; ASPA 158–Hut Point; and ASPA 161–Terra Nova Bay.

Dates

October 1, 2012 to September 30, 2017.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2012–14282 Filed 6–12–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0258]

Final Alternative Soils Standards for the Uravan, CO, Uranium Mill

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Uranium milling alternative standards.

SUMMARY: This document announces that on May 18, 2012, the U.S. Nuclear Regulatory Commission (NRC or the Commission) made a determination required by Section 274o of the Atomic Energy Act of 1954, as amended (the Act), for Agreement State proposed alternative standards for 11e.(2) byproduct material. The Commission has determined that the State of Colorado's proposed alternative soils standards will achieve a level of stabilization and containment of the sites concerned. It will also provide a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites equivalent to or more stringent than the level that would be achieved by existing standards and requirements, to the extent practicable. Existing standards include those adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the U.S. Environmental Protection Agency (EPA) in accordance with Section 275 of the Act. This document completes the notice and public hearing process required in Section 274o of the Act for proposed State alternative soil standards.

DATES: The Commission made a determination on the State of Colorado's proposed alternative soils standards on May 18, 2012.

ADDRESSES: Please refer to Docket ID NRC–2011–0258 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0258. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dennis M. Sollenberger, telephone: 301–415–2819; email: *Dennis.Sollenberger@nrc.gov*, or Stephen Poy, telephone: 301–415–7135; email: *Stephen.Poy@nrc.gov.* Both serve in the Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: Since Congress added Section 274 of the Act in 1959, the Commission has entered into Agreements with 37 States that relinquished Federal authority. Under these Agreements, each State assumed regulatory authority under State law to regulate certain radioactive materials within the State. The NRC periodically reviews the performance of the Agreement States to ensure compliance with the provisions of Section 274. Congress further amended the Act In 1978 by adding a new subsection, Section 274o, which required Agreement States to specifically amend their agreements to regulate uranium mill tailings (11e.(2) byproduct material). Six Agreement States have this authority as part of their agreements. Under Section 274o of the Act, an Agreement State may adopt site-specific alternative standards with respect to sites at which ores are processed primarily for their source material content or at sites used for the disposal of Section 11e.(2) byproduct material. Before a State can adopt alternative standards, the Commission must make a determination that the alternative standards will achieve a level of stabilization and containment of the site concerned, and the alternative standards will provide an equivalent or more stringent level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the site. In addition, before making a determination, the NRC must provide notice and an opportunity for public hearing before approving the site-specific alternative standards.

The Commission approved a process similar to that specified in Title 10 of the *Code of Federal Regulations* (10 CFR) part 2, Subpart H, ''Rulemaking,'' to fulfill both provisions for notice and for opportunity for public hearing required by Section 274o of the Act. This document completes the notice and opportunity for public hearing provisions of the Act with the notice of the final Commission determination. In a memorandum dated August 21, 2011 (ADAMS Accession No. ML112010137), the NRC's Executive Director for Operations notified the Commission of the staff's intention to publish a notice and opportunity for public hearing in the **Federal Register** on the State of Colorado's proposed alternative soils standards for a 30-day comment period (76 FR 70170; November 10, 2011). The public comment period and opportunity for hearing ended on December 12, 2011. The Commission received two comment letters on Colorado's alternative soils standards proposal (ADAMS Accession Nos. ML11346A586 and ML12033A032).

The NRC staff prepared an analysis of the comments received on Colorado's proposed alternative soils standards (ADAMS Accession No. ML120330021). The first of the two commenters wrote in support of Colorado's alternative soils standards. The second of the two commenters questioned the basis for applying alternative standards and requested a clarification regarding the requirements and the use of the alternative soils standards in the decommissioning process and in transferring the Uravan uranium mill site to the U.S. Department of Energy. The NRC staff found no deficiencies in Colorado's proposed alternative soils standards but the staff did make changes to its assessment to add clarity in response to the comments (ADAMS Accession No. ML120330018).

The Commission considered the comments submitted, the NRC staff's analysis of the comments, and the NRC staff's recommendation that the Commission approve a final determination that Colorado's proposed alternative soils standards meet the requirements in Section 274o of the Act. The Commission has determined that the State of Colorado's proposed alternative soils standards will achieve a level of stabilization and containment of the sites concerned. They also achieve a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites that is more stringent than the level that would be achieved by existing standards and requirements. Existing standards include those promulgated by the Administrator of the EPA in accordance with Section 275 of the Act.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 7th day of June, 2012.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2012–14411 Filed 6–12–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974, Computer Matching Program: United States Postal Service and the Defense Manpower Data Center, Department of Defense

AGENCY: Postal Service™.

ACTION: Notice of Computer Matching Program—United States Postal Service and the Defense Manpower Data Center, Department of Defense.

SUMMARY: The United States Postal Service® (Postal Service®) plans to participate as the recipient agency in a computer matching program with the Defense Manpower Data Center (DMDC), Department of Defense (DoD), as the source agency. The purpose of this agreement is to verify continuing eligibility for the TRICARE Reserve Select Program (TRS) or TRICARE Retired Reserve (TRR) by identifying TRS and TRR recipients who are eligible for or receiving health coverage under Federal Employee Health Benefits (FEHB), and to terminate TRS or TRR benefits if appropriate.

DATES: The matching program will begin on the effective date of the agreement. The effective date is the expiration of a 40-day review period by Office of Management and Budget (OMB) and Congress or 30 days after the publication of this notice, whichever is later. The matching program will be valid for a period of 18 months after this date.

ADDRESSES: Written comments on this proposal should be mailed or delivered to the Records Office, United States Postal Service, 475 L'Enfant Plaza SW., Room 9431, Washington, DC 20260. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jane Eyre at (202) 268–2608.

SUPPLEMENTARY INFORMATION:

The Postal Service and DMDC have completed an agreement to conduct a computer matching program under subsection (o) of the Privacy Act of 1974, 5 U.S.C. 552a. The Postal Service is undertaking this initiative to assist the DMDC in fulfilling a mandate issued under the John Warner National Defense Authorization Act of 2007 (NDAA of 2007) (Pub. L. 109–364) for TRS, with the Fiscal Year 2010, amended section 1076e of title 10 U.S.Code to establish the TRR Program. This Act established the enhanced TRS program as of October 1, 2007 and the TRR Program as of October 29, 2009, while excluding Selected Reserve and Retired Reserve members eligible for FEHB under chapter 89 of title 5, U.S.Code from participation in TRS or TRR.

The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of obtaining the information needed by the DMDC to identify individuals ineligible to continue the TRICARE Reserve Select and TRICARE Retired Reserve (TRR) Programs. If this identification is not accomplished by computer matching, but is done manually, the cost would be prohibitive and it is possible that not all individuals would be identified.

The Postal Service has agreed to assist the DMDC in its efforts to identify individuals that are not entitled to receive health coverage under TRS or TRR. Currently, upon initial enrollment into TRS or TRR, service members must certify that they are not eligible for FEHB in order to purchase TRS or TRR health care insurance coverage. Neither TRS or TRR has a termination date. The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of identifying ineligible TRS or TRR recipients that are eligible for or receiving health coverage under FEHB. Absent the matching agreement, DoD would have to recertify the enrolled population every year. Manual verification of Federal employment information would be an unnecessary and burdensome process and a significant expense for the DoD. Additionally, it is possible that not all affected individuals would be identified. There are no other consolidated data sources available containing this type of information.

The match will compare systems of records maintained by the respective agencies from which records will be disclosed for the purpose of this computer match. The Postal Service's Personnel Compensation and Payroll Records (USPS System of Records (SOR) 100.400 as amended by 76 FR 35484 (June 17, 2011)) will be compared with a file of records of Selected Reserve and Retired Reserve members who are enrolled in the TRS or the TRR. These disclosures are authorized by a Privacy Act routine use. This routine use, identified as routine use 7, is applicable to the payroll system of records, and permits disclosures to Federal and state agencies when the record is needed by the Postal Service or another agency to determine employee participation in, and eligibility under, particular benefit programs administered by those agencies. The DMDC will use the system of records identified as DMDC 02 DoD, ''Defense Enrollment Eligibility Reporting System (DEERS)'', as amended by 76 FR 46757 (August 3, 2011). Routine use 22(1) provides the DoD with the FEHB eligibility and Federal employment information necessary to determine continuing eligibility for the TRS or the TRR program.

The DMDC will provide semi-annual data to the Postal Service to be used in the match, including Social Security Numbers, names, and dates of birth for TRS-enrolled Selected Reservists or TRR-enrolled Retired Reservists. The Postal Service will submit to the DMDC a file of matches against the Postal Service Payroll database.

The DMDC will update the database with the Postal Service FEHB eligibility information and will provide the matching results to the responsible Reserve Component. The responsible Reserve Component is responsible for verifying the information and making final determinations as to positive identification and eligibility for TRS or TRR benefits.

This computer match may have an adverse effect on individuals that are identified from the match. After verifying the accuracy of the matching information and determining ineligibility for coverage under TRS or TRR, the DoD will immediately notify the individual of his or her ineligibility for TRS or TRR, and inform the individual at the same time about procedures for enrolling in FEHB. This process will help to alleviate or minimize any break in medical coverage.

The privacy of employees will be safeguarded and protected. The Postal Service will manage all data in strict accordance with the Privacy Act and the terms of the matching agreement. Any verified data that is maintained will be managed within the parameters of Privacy Act System of Record USPS 100.400, Personnel Compensation and Payroll Records.

The Postal Service will provide 40 days advance notice to Congress and the unions for each subsequent matching agreement. Set forth below are the terms of the matching agreement, which provide information required by the Privacy Act of 1974 (5 U.S.C. 552a); OMB Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular No. A–130, Appendix I (65 FR 77677 (December 12, 2000)).

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

Computer Matching Agreement between the United States Postal Service and the Defense Data Manpower Center, Department of Defense

A. Supersedure

This computer matching agreement supersedes all existing data exchange agreements or memorandums of understanding between the Department of Defense (DoD) and the United States Postal Service (USPS) applicable for determining the eligibility for the enrollment in premium based TRICARE health plans for Reserve Component (RC) Service members based on their eligibility for Federal Employees Health Benefits (FEHB) Program.

B. Purpose of the Computer Matching Agreement

The purpose of this agreement is to establish the conditions, safeguards, and procedures under which the USPS, an independent establishment of the executive branch of the Government of the United States, section 201 of title 39, United States Code (U.S.C.), and USPS Payroll, as the recipient agency, will disclose FEHB program eligibility and Federal employment information to DoD, as the source agency. This disclosure by USPS will provide the DoD with the FEHB program eligibility and Federal employment information necessary to either verify the eligibility to enroll or verify the continuing

eligibility of enrolled Service members for premium based TRICARE health plans such as the TRICARE Reserve Select (TRS) Program and the TRICARE Retired Reserve (TRR) Program.

C. Legal Authority

This CMA is executed to comply with section 552a of title 5 U.S.C., as amended (the Privacy Act of 1974), Public Law (Pub. L.) 100–503, the Computer Matching and Privacy Protection Act (CMPPA) of 1988, the Office of Management and Budget (OMB) Circular A–130, titled ''Management of Federal Information Resources'' at 61 **Federal Register** (FR) 6435, February 20, 1996, and OMB guidelines pertaining to computer matching at 54 FR 25818, June 19, 1989. The Postal Service is authorized to enter into this agreement in accordance with section 411 of title 39, U.S.C.

Section 706 of Public Law 109–364, the John Warner National Defense Authorization Act of 2007, amended section 1076d of title 10 U.S.C. to establish the enhanced TRS Program as of October 1, 2007. Section 705 of Public Law 111–84, National Defense Authorization Act for Fiscal Year 2010, amended section 1076e of title 10 U.S.C. to establish the TRR Program as of October 29, 2009. RC Service members who have continuing eligibility for the FEHB Program pursuant to chapter 89 of title 5 U.S.C. are not eligible to enroll, or continue an enrollment, in the TRS or the TRR Program. This agreement implements the additional validation processes needed by DoD to insure RC Service members eligible for the FEHB Program may not enroll, or may not continue a current enrollment, in the TRS or the TRR Program.

D. Definitions

1. DoD—Department of Defense

2. USPS—United States Postal Service Payroll processing unit in Eagan, MN

3. FEHB Program—Federal Employees Health Benefits Program

4. TRS Program—TRICARE Reserve Select, a premium based TRICARE military health plan for members of the Selected Reserve of the Ready Reserve of the Armed Forces of the United States

5. TRR Program—TRICARE Retired Reserve, a premium based TRICARE military health plan for members of the Retired Reserve of the Armed Forces of the United States

6. DMDC—Defense Manpower Data Center

7. DEERS—Defense Eligibility Enrollment and Reporting System

8. OASD(RA)—Office of the Secretary of Defense for Reserve Affairs

9. Recipient Agency—as defined by the Privacy Act (section 552a(a)(9) of title 5 U.S.C.), the agency receiving the records contained in a system of records from a source agency for use in a matching program. USPS is the recipient agency.

10. Source Agency—as defined by the Privacy Act (section 552a(a)(11) of title 5 U.S.C.), the agency which discloses records contained in a system of records to be used in a matching program. DoD DMC is the source agency.

11. TMA—the TRICARE Management Activity

E. Description of the Match Records

Under the terms of this matching agreement, the Defense Manpower Data Center (DMDC) will provide to USPS Payroll a file of records consisting of Social Security Number (SSN), date of birth (DOB), and the name of Service members of the Ready Reserve, Standby Reserve, and Retired Reserve of the Armed Forces of the United States. DMDC will update the Defense Eligibility Enrollment Reporting System (DEERS) record of those RC Service members with FEHB Program eligibility information from the USPS response file. The Office of the Assistant Secretary of Defense for Reserve Affairs (OASD(RA)) will be responsible for providing the verified information to the RCs to aid in processing of TRS and TRR eligibility determinations.

USPS agrees to conduct two computer matches within a calendar year of the records of RC Service members provided by DMDC matched with the information found in USPS Payroll system for permanent employees in a current pay status. USPS will validate the identification of the RC records that match with the name, SSN and DOB provided by DMDC. USPS Payroll will provide the Civilian Agency Indicator, the full FEHB Program Plan Code, a Multiple Record Indicator, and a DOB Match Indicator. USPS Payroll will forward a response file to DMDC within 30 business days following the receipt of the initial finder file and for all subsequent files submitted.

F. Justification and Expected Results

1. *Justification.* Service members of the Selected Reserve who are eligible for the FEHB Program are ineligible to enroll in the TRS Program. Once a Selected Reserve Service member enrolls in the TRS Program, he or she maintains continued coverage until enrolling in a non-premium based TRICARE Program, make a decision to terminate TRS coverage, or leave the Selected Reserve voluntarily. Service members of the Retired Reserve who are eligible for the FEHB Program are ineligible to enroll in the TRR Program. Once a Retired Reserve member enrolls in the TRR Program, he or she maintains continued coverage until they reach age 60, voluntarily make a decision to terminate the coverage, or enroll in a non-premium based TRICARE Program. In order to effectively administer the program, DoD has a requirement for a verified source of FEHB Program eligibility to administer the TRS and the TRR Programs.

As a condition of enrollment into TRS or TRR Program, Service members certify they are not eligible for the FEHB Program. Since there is no mandatory termination date for TRS, and the mandatory termination date for TRR is age 60, DoD will validate the eligibility status of the member on a semiannual basis using data from the USPS Payroll. Absent the matching agreement, the enrolled RC population would be required to recertify their eligibility for the FEHB Program every year. This would be an onerous process for Service members as well as significant expense for DoD. The use of computer technology to transfer data between DMDC and USPS Payroll is faster and more efficient than the use of any other manual process to verify eligibility information for the FEHB Program.

2. *Expected Results.* The data from USPS Payroll will identify Service members who are eligible for the FEHB Program and will be used to prevent an enrollment in the TRS or the TRR Program if warranted, and also to identify the FEHB Program eligibility of a currently enrolled Service member in the TRS and the TRR Program. The computer match between the USPS Payroll system and the DEERS could have an adverse impact on those individuals who lose their entitlement for TRS or TRR Program; however, it will have a positive impact as well. Service members are notified of the pending termination of their enrollment for TRS or TRR Program and provided information for enrollment in the FEHB Program. This matching process will help to insure the member has no break in medical coverage.

The derived benefits from this matching operation are primarily not quantifiable. DoD is responding to statute to exclude from the TRS and the TRR Programs Service members eligible for the FEHB Program. No savings will accrue to DoD as a result of this match. Eligible beneficiaries will receive care they are entitled to under the law.

G. Description of the Records

1. *Systems of Records (SOR).* DoD will use the SOR identified as DMDC 02

DoD, entitled ''Defense Eligibility Enrollment Reporting System (DEERS), August 3, 2011, 76 FR 46757.'' The SSNs of RC Service members released to USPS pursuant to the routine use ''22a'' set forth in the system notice DMDC 02 DoD. (A copy of the system notice is at Attachment 1).

2. *Systems of Records (SOR).* USPS Payroll provides identification of the FEHB Program status of RC Service members to validate the eligibility for the statutory requirement of the TRS and the TRR Program. Therefore, eligibility information is maintained in the SOR identified as USPS 100.400 ''Personnel Compensation and Payroll Records,'' at 76 FR 35483, June 17, 2011, pursuant to routine use 7. (A copy of the system notice is at Attachment 2).

3. *Number of Records.* DMDC will submit a finder file of approximately 1.4 million records containing the SSN, name, and DOB of RC Service members for matching against the USPS Payroll, and will submit subsequent finder files on a semiannual basis thereafter. USPS Payroll will provide a reply file containing all appropriate matched responses.

4. *Specified Data Elements.* See Attachment 3 for a sample record format for the finder file and the reply file.

5. *Operational Time Factors.* DMDC will forward the initial finder file of RC Service members to USPS Payroll after the Congressional and OMB review and public comment requirements, mandated by the Privacy Act, are satisfied. USPS Payroll will provide a reply file no later than 30 business days after receipt of the initial finder file. Subsequent finder files, submitted on a semiannual basis, will receive a response within approximately 30 business days of receipt. USPS Payroll requires the reporting of the health plan semiannually: March and September, and the USPS Payroll system is usually available for use from 60 to 90 days after the end of the month. DMDC will send the finder file when the USPS Payroll system is ready to match, approximately 60 to 90 days after March and September.

H. Notice Procedures

The TRICARE Management Activity (TMA) will inform all TRS and TRR sponsors of computer matching activities at the time of enrollment by means of the encounter statement on the DD Form 2896–1, ''RC Health Coverage Request Form.'' The DD Form 2896–1 is used to coordinate enrollment into the TRS Program or the TRR Program. RC Service members certify at the time of enrollment that they are not eligible for the FEHB Program. In order to provide direct notice to those Service members enrolled in TRS or TRR, DMDC will first need the information from USPS Payroll to identify TRS and TRR participants who are eligible for the FEHB Program. Once DMDC receives that information, Service members enrolled in TRS and TRR identified by the USPS Payroll matching result as FEHB eligible will be notified by their RC in writing of this status. The Service members enrolled in TRS or TRR are requested to terminate TRS or TRR coverage if the USPS Payroll information is correct or to seek RC assistance to determine their proper eligibility for the FEHB Program if the USPS Payroll data is incorrect. The RCs and TMA will also provide qualifying information for TRS and TRR to RC Service members through beneficiary handbooks, pamphlets, educational materials, press releases, briefings, and via the TMA Web site.

Any deficiencies as to direct notice to the individual for the matching program are resolved by the indirect or constructive notice that is afforded the individual by agency publication in the FR of both the:

1. Applicable routine use notice, as required by section 552(e)(11) of title 10 U.S.C. permitting the disclosure of the FEHB Program eligibility information for DoD TRS and TRR Program eligibility purposes.

2. The proposed match notice, as required by section 552(a)(e)(12) of title 10 U.S.C., announcing an agency's intent to conduct computer matching for verification of FEHB Program eligibility for determining eligibility for TRS and TRR Program.

I. Verification and Opportunity To Contest Findings

1. *Verification.* The RCs, in support of OASD(RA), are responsible for resolving FEHB Program eligibility based on the data provided by DMDC from the USPS Payroll reply file where inconsistencies exist. Any discrepancies as furnished by USPS Payroll, or developed as a result of the match, will be independently investigated and verified by the RCs, in support of OASD(RA), prior to any adverse action being taken against the individual.

2. *Opportunity to Contest Findings.* Based on the DoD policy the RCs agree to provide written notice to each individual whom DoD believes is no longer eligible for the TRS or the TRR Program based on the USPS Payroll file match. If the individual fails to terminate coverage or notify the RC that the information is not accurate within 30 days from the date of the notice, DoD will forward the information to the RC Program Manager for final resolution of the TRS or the TRR enrollment.

J. Retention and Disposition of Identifiable Records

USPS Payroll will retain all personally identifiable records received from DMDC only for the period of time required for any processing related to the matching program. USPS Payroll will delete the DMDC finder file upon completion of the match. The electronic data provided as part of the matching program will remain the property of the agency furnishing the files and will be destroyed after the matching program is completed, but not more than 90 days after receipt of the electronic data except for those records that must be retained in the individual's permanent case file in order to meet evidentiary requirements. In any such case, the data is deleted once it is no longer needed. Destruction will be accomplished by shredding, burning or electronic erasure.

As soon as set up processing for the next match has been completed and any duplicated hits identified, the information generated through the match will be destroyed unless the information must be retained to meet evidential requirements.

K. Security Procedures

DoD and USPS Payroll will safeguard information provided under this agreement as follows:

1. Each agency shall establish appropriate administrative, technical, and physical safeguards to assure the security and confidentiality of records and to protect against any anticipated threats or hazard to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

2. Access to the records matched and to any records created by the match will be restricted only to those authorized employees and officials who need it to perform their official duties in connection with the uses of the information authorized in this agreement.

3. The records matched and any records created by the match will be stored in an area that is physically safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

4. The records matched, and any records created by the match, will be processed under the immediate supervision and control of authorized personnel, to protect the confidentiality of the records in such a way that

unauthorized persons cannot retrieve any such records by means of computer, remote terminal or other means.

5. All personnel who will have access to the records exchanged and to any records created by this exchange are advised of the confidential nature of the information, the safeguards required to protect the information and the civil and criminal sanctions for noncompliance contained in applicable Federal Laws.

6. USPS Payroll and DMDC may make onsite inspections, and may make other provisions to ensure that each agency is maintaining adequate safeguards.

The Data Integrity Boards (DIB) of USPS and DoD reserve the right to monitor compliance of systems security requirements, including, if warranted, the right to make onsite inspections for purposes of auditing compliance, during the life of this Agreement, or its 12 month extension period.

L. Records Usage, Duplication and Re-Disclosure Restrictions

1. The matching files exchanged under this agreement remain the property of the providing agency and as described in Section J.

2. The data exchanged under this agreement will be used and accessed only for the purpose of determining eligibility for premium based TRICARE health plan such as the TRS and TRR Programs.

3. Neither DoD nor USPS will extract information from the electronic data files concerning the individuals that are described therein for any purpose not stated in this agreement.

4. Except as provided in this agreement, neither DoD nor USPS will duplicate or disseminate the data produced without the disclosing agency's permission. Neither agency shall give such permission unless the re-disclosure is required by law or essential to the conduct of the matching program. In such cases, DoD and USPS will specify in writing what records are being disclosed and the reasons that justify such disclosure.

M. Records Accuracy Assessments

DMDC estimates that at least 99% of the information in the finder file is accurate based on their operational experience. USPS Payroll is a highly reliable source of statistical data on the Postal Service workforce. However, accuracy and completeness of each data element within the individual records that comprise this aggregate are not conclusive. Findings emanating from individual records warrant further examination and verification as to its accuracy, timeliness, and completeness with the data subject.

N. Reimbursements and Funding

Expenses incurred by this data exchange will not involve any payments or reimbursements between USPS and DoD.

O. Approval and Duration of Agreement

1. This matching agreement, as signed by representatives of both agencies and approved by the respective agency's Data Integrity Boards (DIB), shall be valid for a period of 18 months from the effective date of the agreement.

2. When this agreement is approved and signed by the Chairpersons of the respective DIBs, the USPS, as the recipient agency, will submit the agreement and the proposed public notice of the match as attachments in duplicate via a transmittal letter to OMB and Congress for review. The time period for review begins as of the date of the transmittal letter.

3. USPS will forward the public notice of the proposed matching program for publication in the **Federal Register**, in accordance with section 552(a)(e)(12) of title 5 U.S.C., the transmittal letter to OMB and Congress. The matching notice will clearly identify the record systems and category of records being used and state that the program is subject to review by the OMB and Congress. A copy of the published notice shall be provided to the DoD.

4. The effective date of the matching agreement and date when matching may actually begin shall be at the expiration of the 40 day review period for OMB and Congress, or 30 days after publication of the matching notice in the **Federal Register,** whichever is later. The parties to this agreement may assume OMB and Congressional concurrence if no comments are received within 40 days of the date of the transmittal letter. Both the 40 day OMB and Congressional review period, and the mandatory 30 day public comment period for the **Federal Register** publication of the notice will run concurrently.

5. This agreement may be renewed for 12 months after the initial agreement period as long as the statutory requirement for the data match exists, subject to the Privacy Act, including certification by the participating agencies to the responsible DIBs that:

a. The matching program will be conducted without change, and

b. The matching program has been conducted in compliance with the original agreement.

6. This agreement may be modified at any time by a written modification from either agency that satisfies both parties and is approved by the DIB of each agency.

7. This agreement may be terminated at any time with the consent of both parties. If either party does not want to continue this program, it should notify the other party of its intention not to continue at least 90 days before the end of the then current period of the agreement. Either party may unilaterally terminate this agreement upon written notice to the other party requesting termination, in which case the termination shall be effective 90 days after the date of the notice or at a later date specified in the notice provided the expiration date does not exceed the original or the extended completion date of the match.

P. Waiver of Cost Benefit Analysis

The purpose of this matching agreement is to verify eligibility of Service member enrolling or enrolled in the TRS or the TRR Programs. By statute, such coverage may be provided if the person is not eligible for the FEHB Program. FEHB Program eligibility can only be obtained from USPS, and without this information, a determination of continued eligibility cannot be made. Matching must occur regardless of the associated cost or anticipated benefits. Accordingly, the cost benefit is waived.

Q. Persons to Contact

The contacts on behalf of DoD are:

Mr. Samuel P. Jenkins, Director for Privacy, Defense Privacy and Civil Liberties Office, 1901 S. Bell Street, Suite 920, Arlington, VA 22202, (703) 607–2943;

Mr. David M. Percich, Director, RC Systems and Integration, Office of the Assistant Secretary of Defense for Reserve Affairs, 1500 Defense Pentagon, Room 2E565, Washington, DC 20301, (703) 693–2238;

Ms. Dena Colburn, DEERS Division, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Rd., Seaside, CA 93955–6771, (831) 583–2400 x4332.

The contacts on behalf of USPS are:

Mr. M. Alan Ruof, Manager Benefits Program, 475 L'Enfant Plaza SW., Washington, DC 20260–410, (202) 268–4187, (202) 268–3337 fax, Email: *malan.alan.ruof@usps.gov;*

Ms. Christine Harris, HQ Payroll Accountant, 2825 Lone Oak Parkway, Eagan MN 55121–9500, (651) 406–2128, (651) 406–1212 fax, Email: *christine.a.harris@usps.gov.*

R. Approvals

Department of Defense Program Officials

The authorized program officials, whose signatures appear below, accept and expressly agree to the terms and conditions expressed herein, confirm that no verbal agreements of any kind shall be binding or recognized, and hereby commit their respective organizations to the terms of this agreement.

Ms. Jessica L. Wright, Principal Deputy Assistant Secretary of Defense for Reserve Affairs, Office of the Secretary of Defense for Reserve Affairs;

Ms. Mary Snavely-Dixon, Director, Defense Manpower Data Center.

Defense Data Integrity Board

The respective DIBs having reviewed this agreement and finding that it complies with applicable statutory and regulatory guidelines signify their respective approval thereof by the signature of the officials appearing below.

Mr. Michael L. Rhodes, Chair, Defense Data Integrity Board, Department of Defense.

USPS Program Officials

Michele Mulleady, Chief Privacy Officer, Secretary, Data Integrity Board, United States Postal Service;

USPS Data Integrity Board

The respective DIBs having reviewed this agreement and found that it complies with applicable statutory and regulatory guidelines signify their respective approval thereof by the signature of the officials appearing below.

Mary Anne Gibbons, General Counsel and Executive Vice President, Chairperson, Data Integrity Board, United States Postal Service.

[FR Doc. 2012–14308 Filed 6–12–12; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67153; File No. SR–NYSEMKT–2012–05]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the NYSE Amex Options Fee Schedule To Amend the Rights Fee That Is Charged to Specialists, e-Specialists and Directed Order Market Makers

June 7, 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 May 31, 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to amend the Rights Fee that is charged to Specialists, e-Specialists and Directed Order Market Makers. 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, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to amend the Rights Fee that is charged to Specialists, e-Specialists, and Directed Order Market Makers (''DOMMs''). The Exchange believes the proposed change will allow it to recoup some of the costs of listing new option classes that may not generate sufficient trading activity and, in turn, trading-related revenues.

Presently, the Exchange assesses a monthly Rights Fee to Specialists, e-Specialists, and DOMMs. The current Rights Fee is variable, based on the Average Daily National Customer Contracts traded, calculated over the prior three months, with a one-month lag. For example, the Average Daily National Customer Contracts traded for January, February, and March are used to arrive at the Rights Fee applicable to a particular option for trading in the month of May. The table below contains the Average Daily National Customer Contracts traded tiers and the associated Rights Fee:

Average national daily customer contracts per issue	Monthly base rate per issue
0 to 2,000	$75
2,001 to 5,000	200
5,001 to 15,000	375
15,001 to 100,000	750
Over 100,000	1,500

The Exchange proposes to amend the tiers and fees as follows:

Average national daily customer contracts per issue	Monthly base rate per issue
0 to 200	$250
201 to 2,000	75
2,001 to 5,000	200
5,001 to 15,000	375
15,001 to 100,000	750
Over 100,000	1,500

The 0-to-200 tier will only apply to options listed after June 1, 2012. Options listed before June 1, 2012 will be ''grandfathered'' and, as such, subject to the monthly base rate per issue of $75 if they fall into the 0 to 200 contract volume tier. The Exchange will publish on its Web site a list of all ''grandfathered'' options.

By adding a new, lower volume tier, the Exchange intends to recoup the costs associated with a new options listing that does not in turn generate sufficient trading volume and associated

trade-related revenues. The Exchange believes that the higher Rights Fee for the new lower volume tier will encourage more efficient use of the Exchange's resources. Unfettered growth in option listings without an offsetting growth in volume will ultimately result in increased costs for all participants. By instituting the proposed Rights Fee for lower volume issues, the Exchange intends to encourage the delisting of inactive options. In those instances where participants instead wish to continue to trade relatively inactive options, they will directly contribute toward some of the Exchange costs to support that trading instead of having those costs shared among all Exchange participants.

Additionally, the Exchange wishes to explain the manner in which the monthly Rights Fee is apportioned among the Specialist, e-Specialist and DOMM participants in the event that participant volumes are all zero in a given month. Presently, the Rights Fee is shared among participants according to the relative amount of trading volume each participant accounts for.[3] Consider the following example of an option that has Average Daily National Customer Contracts traded between 5,001 and 15,000—such option has a Rights Fee of $375. During the month, each of the participants accounts for the following volumes:

Specialist	5,000
e-Specialist	5,000
DOMM 1	2,500
DOMM 2	2,500
	15,000

The participants in aggregate account for 15,000 contracts. Each participant is then charged based on its proportion of the total volume. For example:

Specialist	5,000/15,000 = 33.3% × $375 =	$125.00
e-Specialist	5,000/15,000 = 33.3% × $375 =	$125.00
DOMM 1	2,500/15,000 = 16.6% × $375 =	$62.50
DOMM 2	2,500/15,000 = 16.6% × $375 =	$62.50
		$375.00

In the scenario where the Specialist, the e-Specialist, or DOMMs transact zero volume in a month, the Exchange splits the Rights Fee equally among the Specialist and e-Specialist, such that each Specialist and/or e-Specialist participant is liable for 50% of the Rights Fee. In the event that there is only a Specialist or e-Specialist and there are no DOMM volumes, then that sole Specialist or e-Specialist incurs 100% of the Rights Fee applicable to the option issue.

Finally, the Exchange proposes to amend the Fee Schedule to reflect the Exchange's name change to NYSE MKT LLC.

The proposed changes will be operative on June 1, 2012.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[4] of the Securities Exchange Act of 1934 (the ''Act''), in general, and Section 6(b)(4)[5] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed change to Rights Fees are reasonable, given the need to offset some of the costs associated with listing new options that do not subsequently trade sufficiently to generate trade-related revenues for the Exchange.

The proposed change is reasonable and equitable because it averts the need to share the costs of supporting low volume option issues among all Exchange participants. Instead, those participants, specifically Specialists, e-Specialists, and DOMMs that are subject to the new, lower volume tier and Rights Fee contribute toward some of the Exchange's costs in supporting trading in low volume issues. The Exchange notes that unless a Specialist or e-Specialist applies to be the Specialist or e-Specialist in a new option issue, it cannot be subject to the Rights Fee charges. Similarly, a Market Maker can opt out of receiving Directed Orders on a symbol-by-symbol basis and thereby avert incurring the Rights Fee. Given this ability to knowingly incur the fee, or conversely avoid it, the Exchange believes that the proposal is reasonable, equitable, and not unfairly discriminatory, as participants may decide of their own accord to subject themselves to the proposed fee. Further, other Exchange participants are not being asked to subsidize the listing of new options that subsequently do not generate sufficient trading revenues to offset the Exchange's costs in supporting those new option listings.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apportion the Rights Fee equally among the Specialist and e-Specialist in the event that none of the Specialist, e-Specialist or DOMMs have any volume in a given month. Specifically, the Exchange is unable to list an option unless a Specialist or e-Specialist opts to include it in their assignment; it is able to list an option without a DOMM. As such, in the event that participant volumes are all zero in a given month, limiting the Rights Fee assessment to the Specialist and e-Specialist is warranted given that, unlike a DOMM, they can request to have the option delisted if they feel that the opportunity cost of the listing, i.e. the Rights Fee, outweighs the benefit of the listing, the potential trading opportunities.

The proposed change also is not unfairly discriminatory as it applies equally to all Specialists, e-Specialists, and DOMMs. As noted, those participants are able to avoid incurring the fee by simply not applying to trade options listed on or after June 1, 2012. The fee for options in the newly proposed volume tier of 2 [sic] to 200 Average National Daily Customer Contracts is only $250 per issue, so any one participant would never pay more than that per option class. As noted, the Exchange is implementing this fee for all options listed on or after June 1, 2012, and then only when the option fails to achieve greater than 200 Average National Daily Customer Contracts.

For these reasons, the Exchange believes that the proposed change is reasonable, equitable, and not unfairly discriminatory.

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

[3] *See* endnote 1 to the Fee Schedule dated May 1, 2012, *available at http://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyse_amex_options_fee_schedule_05_01_12.pdf.*

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[6] of the Act and subparagraph (f)(2) of Rule 19b–4[7] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE MKT.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2012–05 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–NYSEMKT–2012–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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–NYSEMKT–2012–05 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14336 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67159; File No. SR–EDGX–2012–18]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 29, 2012 the EDGX Exchange, Inc. (the ''Exchange'' or the ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members[3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange proposes to introduce the Message Efficiency Incentive Program (''MEIP'') to its fee schedule and codify it in footnote c of the fee schedule. Under the MEIP, Members will receive standard rebates and tier rebates as provided on the EDGX fee schedule so long as the Member's average inbound message-to-trade ratio, measured monthly, is at or less than 100:1 for that month. The Exchange notes that the message-to-trade ratio is calculated by including total messages as the numerator (orders, cancels, and cancel/replace messages) and dividing it by total executions.[4] The Exchange also

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

[4] The Exchange notes that it counts only the first partial or complete execution resulting from an order if it is filled in parts. So, if a 1,000 share orders results in three partial executions of 400 shares, 300 shares, and 300 shares, it counts only the first execution of 400 shares toward the denominator. Thus, the Exchange counts all fills against an order as one trade for purposes of ''total executions.''

notes that any cancel/replace message, regardless of whether it is a partial cancel, is considered a new order. Members who do not satisfy this criteria will have their rebates reduced by $0.0001 per share, regardless of any tiers for which the Member would otherwise qualify.

The Exchange notes that Members sending fewer than 1 million messages per day are exempt from MEIP. Because of a Market Maker's [5] importance in liquidity provision and their ongoing obligations in Rule 11.21(d) [6] to maintain continuous two-sided interest, Members that are registered as Market Makers [7] will be exempt from the MEIP requirements in all securities provided that a Market Maker is registered in at least 100 securities over the course of a given month and is meeting its continuous, two-sided quoting obligations in those 100 securities as provided for in Rule 11.21(d) on at least 10 consecutive trading days in the month, where the Exchange believes that 10 days represents a consistent quoting obligation from the Member.[8] Because a Member's trading activity is not segregated by market participant identifiers (MPID), the Market Making exemption applies to the parent firm and all wholly owned affiliates upon the satisfaction of the Market Maker exemption criteria by one MPID. All MPIDs that are wholly-owned affiliates are exempt from the MEIP as long as one MPID satisfies the criteria for an exemption under market making. In recognition of the value that the Exchange derives from such market making, any Member that meets the market making obligations pursuant to Rule 11.21(d) on at least 10 consecutive trading days in the month will be exempt from a MEIP rebate reduction.

The Exchange may exclude one or more days of data for purposes of calculating the message-to-trade ratio for a Member if the Exchange determines, in its sole discretion, that one or more Members or the Exchange experienced a bona fide systems problem.[9] Any Member seeking relief as a result of a systems problem will be required to notify the Exchange via email with a description of the systems problem. The Exchange shall keep a record of all such requests and whether the request was deemed by the Exchange to be a bona fide systems problem resulting in waiving that day's activity from the calculation of the message-to-trade ratio.

The Exchange proposes to implement these amendments to its fee schedule on June 1, 2012.

Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange believes that the MEIP is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the MEIP will promote a more efficient marketplace and enhance the trading experience of all Members by encouraging Members to more efficiently participate in the marketplace, ensuring that systems capacity/bandwidth is utilized efficiently while still encouraging the provision of liquidity in volatile, high-volume markets and provide Members with order management flexibility. Unfettered growth in bandwidth consumption can have a detrimental effect on all market participants who are potentially compelled to upgrade capacity as a result of the bandwidth usage of other participants. All Members are still free to manage their order and message flow as is consistent with their business models. However, Members who more efficiently participate by sending average monthly inbound message-to-trade ratios of equal to or less than 100:1 for that month are rewarded with the standard rebates and tiered fees provided in the fee schedule. The Exchange believes that this will promote a more efficient marketplace, encourage liquidity provision and enhance the trading experience of all Members on an ongoing basis. The Exchange notes that its technology and infrastructure are still able to handle high-volume and high-volatility situations for those Members that do not satisfy the criteria of the MEIP. The Exchange believes that the proposal is equitable and non-discriminatory in that it applies uniformly to all Members, except with respect to its Members that are registered as Market Makers who meet certain criteria, as discussed in more detail below.

The MEIP is also reasonable in that it is similar to other programs offered by equities exchanges, namely Nasdaq OMX (''Nasdaq''), NYSE, and NYSE Arca. The Exchange believes the MEIP encourages Members to avoid sending extraneous messages to the Exchange's system and thereby encourages more efficient amounts of liquidity to be added to EDGX each month. The Exchange believes that the MEIP will thus discourage trading practices that offer little benefit from liquidity posted to or routed through the EDGX book that may place unwarranted burdens on EDGX's systems. Such increased ''efficient'' volume lowers operational, bandwidth, and surveillance costs of the Exchange and promotes more relevant quotes, which may result in lower per share costs for all Members. The increased liquidity also benefits all investors by deepening EDGX's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

In addition, the rebate is also reasonable in that other exchanges likewise employ similar pricing mechanisms. For example, Nasdaq [12]

[5] As defined in Rule 1.5(l).

[6] Rule 11.21(d) provides that ''For each security in which a Member is registered as a Market Maker, the Member shall be will to buy and sell such security for its own account on a continuous basis during Regular Trading Hours and shall enter and maintain a two-sided trading interest (''Two-Sided Obligation'') that is displayed in the Exchange's System at all times''.

[7] Registration requirements for Market Makers are outlined in Rule 11.20.

[8] The Exchange notes that all registered Market Makers are obligated to meet continuous, two-sided quoting obligations under Rule 11.21(d) whether or not they qualify for the exemption under the MEIP.

[9] An example of bona fide systems problem includes, but is not limited to, an Exchange systems problem that causes a Member to continually attempt to update or withdraw its orders, generating a large volume of traffic. In those cases, where the bona fide systems problem is at the Exchange, the Exchange will exclude the day's activity from the calculation of the message-to-trade ratio for all Members that were impacted by the bona fide systems problem. *See* Securities Exchange Act Release No. 65341 (September 14, 2011), 76 FR 58555 (September 21, 2011) (SR–NYSEAmex–2011–68) for substantially similar exclusions from their ''Messages Fee.''

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] *See* Nasdaq Rule 7014. Similarly, Nasdaq established an Investor Support Program (''ISP'') targeting retail and institutional investor orders where firms receive a higher rebate if they meet all of the following criteria: (1) Add at least 10 million shares of liquidity per day via ISP-designated ports; (2) Maintain a ratio of orders-to-orders executed of less than 10 to 1 (counting only liquidity-providing orders and excluding certain order types) on ISP-designated ports; (3) Exceed the firm's August 2010/2011 ''baseline'' volume of liquidity added across all the firm's ports. For a detailed description of the Investor Support Program as originally implemented, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (SR–Nasdaq–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (SR–Nasdaq–2010–153) (notice of filing and immediate effectiveness); 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (SR–Nasdaq–2010–154) (notice of filing and

and NYSE Arca [13] offer investor support programs and investor tiers, respectively. Such programs reward liquidity provision attributes and encourage price discovery by encouraging a low cancellation rate on liquidity-providing orders. MEIP is similar to Nasdaq's/NYSE Arca's programs in they both encourage efficient liquidity provision. It is similar to Nasdaq's Investor Support Program in that for Nasdaq members to qualify, among a firm's liquidity-providing orders, it must maintain a ratio of ''orders'' to ''orders executed'' of less than ten to one (i.e., at least one out of every ten liquidity-providing orders submitted must be executed rather than cancelled). Similarly, NYSE Arca's investor tiers require its members to maintain a ratio of cancelled orders to total orders of less than 30% and maintain a ratio of executed liquidity adding volume to total volume of greater than 80%, among other criteria. The MEIP is similar to NYSE Arca's investor tiers in that like NYSE Arca's investor tiers, the Exchange's goal is to incentivize Members to maintain low cancellation rates and provide liquidity that supports the quality of price discovery and promotes market transparency. In addition, similar to the investor tiers of NYSE Arca, the MEIP ''reward[s] providers whose orders stay on the [b]ook and do not rapidly cancel a large portion of their orders placed, which makes the price discovery process more efficient and results in higher fill rates, greater depth and lower volatility. It serves to encourage customers to post orders that are more likely to be executed.'' [14]

The MEIP is also similar to Nasdaq's ''excessive message fee'', in which Nasdaq charges a per order fee for its members that make inefficient use of certain features of Nasdaq's routing facility.[15] When Nasdaq members route to the NYSE after having their orders check the Nasdaq book, they may designate their orders as eligible for posting to the Nasdaq book after accessing available liquidity at NYSE and elsewhere, or they may designate their orders for posting the NYSE book. Nasdaq's excessive message fee applies to round lot or mixed lot orders that attempt to execute on Nasdaq for the full size of the order prior to routing, but that are designated as not eligible to post on Nasdaq (''DOTI Orders''). If a member sends an average of more than 10,000 DOTI Orders per day during the month, and the ratio between total DOTI Orders and DOTI Orders that are fully or partially executed (either at Nasdaq or NYSE) exceeds 300 to 1, then the Nasdaq member will be charged a fee of $ 0.01 for each order that exceeds the ratio.

Similar to the Exchange, Nasdaq introduced the excessive message fee to encourage more efficient liquidity provision—namely, ''to address the practice of [its] members routing an order to the NYSE book through NASDAQ and quickly cancelling the order and resubmitting it at a different price if it does not execute within a short period of time. The practice offers no benefits in terms of liquidity posted to the NASDAQ book or execution or routing revenues, and could place unwarranted burdens on NASDAQ routing systems.'' [16] Nasdaq stated that ''Members wishing to continue to use this routing strategy may do so through other means of routing to NYSE, but will be discouraged from doing so through NASDAQ systems.'' [17] The Exchange shares these same objectives in introducing MEIP.

The MEIP is also similar to the NYSE Amex options exchange's ''Messages Fee,'' which promotes efficient usage of system capacity by assessing a fee against its members that enter excessive amounts of orders and quotes that produce little or no volume based on the ratio of quotes and orders to contracts traded. Like NYSE Amex, the Exchange believes it is in the best interest of all Members who access its markets to encourage efficient usage of capacity.[18] In addition, the MEIP is also similar to a host of other options exchanges that assess cancellation fees based on the number of order cancellations, as such high cancellations increases these market centers' costs by requiring them to spend increased amounts on systems and other hardware to process increased order traffic flow.[19]

Finally, the lower rebates offered to Members who do not satisfy the MEIP criteria allows the Exchange to recoup costs associated with the higher costs of surveillance, data, storage, bandwidth, and other infrastructure associated with higher message traffic compared to those Members with lower message traffic. The Exchange believes it to be equitable for Members to get lower rebates when their higher message traffic causes the Exchange to incur higher costs and for Members to receive higher rebates when their message traffic causes the Exchange to incur lower costs.

The Exchange believes that the proposal is allocated in a reasonable and equitable manner because it exempts Members that are registered as Market Makers that contribute to market quality by providing higher volumes of liquidity and have enhanced obligations under Exchange Rule 11.21(d) to maintain fair and orderly markets and quote continuous, two-sided markets. The proposal is equitable because it provides discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that allowing Market Makers to be exempt from the MEIP will attract additional order flow and liquidity to the Exchange. This concept is similar to the structure of varying rebate schedules on other exchanges, where it is common to

immediate effectiveness); 63891 (February 11, 2011), 76 FR 9384 (February 17, 2011) (SR–Nasdaq–2011–022) (notice of filing and immediate effectiveness); and 64050 (March 8, 2011), 76 FR 13694 (March 14, 2011) (SR–Nasdaq–2011–034). *See also* Securities Exchange Act Release No. 65717 (November 9, 2011), 76 FR 70784 (November 15, 2011) (SR–Nasdaq–2011–150).

[13] NYSE Arca also implemented investor tiers where they allow Members to earn a credit of $0.0032 per share for executed orders that provide liquidity to the Book for Tape A, Tape B and Tape C securities when they meet all of the following criteria on a monthly basis: (1) Maintain a ratio of cancelled orders to total orders of less than 30%; (2) Maintain a ratio of executed liquidity adding volume to total volume of greater than 80%; and (3) Firms must add liquidity that represents 0.45% or more of the total US average daily consolidated share volume (''ADV'') per month (volume on days when the market closes early is excluded from the calculation of ADV). *See* Securities Exchange Act Release No. 64593 (June 3, 2011), 76 FR 33380 (June 8, 2011) (SR–NYSEArca–2011–34); Securities Exchange Act Release No. 66115 (January 6, 2012), 77 FR 1969 (January 12, 2012) (SR–NYSEArca–2011–101) (notice of filing and immediate effectiveness of a proposed rule change replacing numerical thresholds with percentage thresholds for the Investor Tiers' volume requirements). *See also* Securities Exchange Act Release No. 66378 (February 10, 2012), 77 FR 9278 (February 16, 2012) (SR–NYSEArca–2012–13).

[14] *See* Securities Exchange Act Release No. 64593 (June 3, 2011), 74 FR 33380 (June 8, 2011) (SR–NYSEArca–2011–34).

[15] *See* Securities Exchange Act Release No. 59455 (February 25, 2009), 74 FR 9457 (March 4, 2009) (SR–Nasdaq–2009–013).

[16] *Id.*

[17] *Id.*

[18] *See* Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR–NYSEAmex–2011–37); *See also* Securities Exchange Act Release No. 65341 (September 14, 2011), 76 FR 58555 (September 21, 2011) (SR–NYSEAmex–2011–68).

[19] *See* Securities and Exchange Act Release No. 62744 (August 19, 2010), 75 FR 52558 (August 26, 2010) (SR–Phlx–2010–105); Securities and Exchange Act Release No. 53226 (February 3, 2006), 71 FR 7602 (February 13, 2006) (SR–Phlx–2005–92); Securities and Exchange Act Release No. 49802 (June 3, 2004), 69 FR 32391 (June 9, 2004) (SR–PCX–2004–31); Securities and Exchange Act Release No. 46189 (July 11, 2002), 67 FR 47587 (July 19, 2002) (SR–ISE–2002–16); Securities and Exchange Act Release No. 44607 (July 27, 2001), 66 FR 40757 (August 3, 2001) (SR–CBOE–2001–40).

tie rebates to market making obligations. For example, rewarding Market Makers with better rebates tied to their market making obligations is consistent with how Supplemental Liquidity Providers (''SLPs'') and Designated Market Makers (''DMMs'') are rebated on NYSE [20] and Lead Market Makers (''LMMs'') are rebated on NYSE Arca.[21] NYSE offers rebates to Designated Market Makers ranging from $0.0004 per share to $0.0035 per share and to Supplemental Liquidity Providers ranging from $0.0010 per share to $0.0024 per share. NYSE Arca offers rebates to its market makers ranging from $0.001 per share to $0.0015 per share and to its Lead Market Makers ranging from $0.004 per share to $0.0045 per share. In addition, the NYSE Amex's messages to contracts traded ratio fee allows its market makers to have incentives, but incorporate a higher level of message traffic before its fees take effect. Like the Exchange, NYSE Amex felt that the ''higher level of free message traffic [was] appropriate due to the quoting obligations incurred by market makers and their importance as liquidity providers in the options market.'' [22] In addition, Members that send less than 1 million messages/day are exempt from this reduction in rebate under the MEIP as well. The Exchange believes this to be equitable and reasonable since those Members do not have a large cumulative effect on the Exchange's message traffic and thus the Exchange's operational, surveillance, and administrative costs are lower for those Members than those Members with higher message traffic.

Thus, the Exchange believes that the MEIP's fees among its Members are uniform except with respect to reasonable and well-established distinctions with respect to market making and Members with lower message traffic (those that send less than 1 million messages/day). These distinctions or analogous versions of them have been previously filed with the Commission.[23]

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to encourage market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members, except with respect to Market Makers for the reasons cited above. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [24] and Rule 19b–4(f)(2) [25] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2012–18 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–EDGX–2012–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2012–18 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14342 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* NYSE Price List 2012.

[21] *See* NYSE Arca Equities, Inc. Schedule of Fees and Charges for Exchange Services.

[22] *See* Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR–NYSEAmex–2011–37).

[23] *Id. See also supra* notes 13–15, 18–21 (NYSE Amex assesses a messages fee if the certain of its members exceed one billion quotes and/or orders (''messages''); Nasdaq assesses its excessive message fee if a member sends an average of more than 10,000 DOTI Orders per day during the month, and the ratio between total DOTI Orders and DOTI Orders that are fully or partially executed (either at Nasdaq or NYSE) exceeds 300 to 1.)

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 19b–4(f)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67161; File No. SR–EDGA–2012–20]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 2012 the EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Purpose

Flag PA is yielded where orders utilize the midpoint routing strategy RMPT [4] and add liquidity to EDGA. The Exchange proposes to reduce the charge it assesses for Members yielding Flag PA from $0.0010 per share to $0.0000 per share. The Exchange also proposes to make conforming changes to Footnote 17 to delete the tier associated with Flag PA, clarify that routing strategy RMPT corresponds with Flags PA, PT and PX, as well as to make other non-material grammatical changes.

Codification of Late Fees

Currently, the Exchange charges additional fees to Members that fail to pay all dues, fees, assessments and charges owed to the Exchange by the prescribed due date. Exchange Rule 15.1(a) states that the Exchange may prescribe such reasonable dues, fees, assessments or other charges as it may, in the Exchange discretion, deem appropriate. In addition, paragraph 13 of the Exchange's User Agreement,[5] which is signed by all Members as part of their membership in the Exchange, also provides that the Member agrees to pay the Exchange a late charge of 1% per month on all past due amounts that are not the subject of a legitimate and bona fide dispute. The Exchange proposes to codify this language in Footnote d on its fee schedule stating that the Exchange will assess a charge of 1% per month on the past due portion of the balance on a Member's account that is past due. This fee will begin to accrue on a daily basis for items not paid within the 30 day payment terms until the item is paid in full. Late fees incurred will be included as line items on subsequent invoices.

The Exchange proposes to implement these amendments to its fee schedule on June 1, 2012.

Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[6] in general, and furthers the objectives of Section 6(b)(4),[7] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange believes that the free rate for Flag PA (the RMPT routing strategy adding liquidity) is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other person using its facilities. The Exchange believes that reducing the charge assessed for Flag PA from $0.0010 per share to $0.0000 per share will incentivize Members to utilize the RMPT routing strategy to route through EDGA, thereby increasing the amount of liquidity on EDGA, before routing to other low cost destinations and other venues. The Exchange believes that increased liquidity may increase potential revenue to the Exchange, and would allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs would allow the Exchange to pass on the savings to Members in the form of lower rates. The increased liquidity also benefits all investors by deepening EDGA's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. In addition, the Exchange believes that the proposed rate is non-discriminatory because the charge will apply uniformly to all Members.

In order to provide additional transparency to Members, the Exchange proposes to codify its existing policy regarding late fees in Footnote d of the fee schedule. The Exchange believes that by including proposed Footnote d it will help to promote market transparency and improve investor protection by displaying the Exchange's policy regarding late fees to Members on its fee schedule along with the Exchange's other rebates and charges. The Exchange also notes that it is equitable and reasonable to charge a Member a late fee on past due balances because it offsets administrative and collection costs associated with past due accounts and incentivizes Members to pay on time in accordance with the terms of the Member's User Agreement. In addition, a late fee of 1% is reasonable because it is in line with the late fees assessed by other exchanges.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

[4] *See* Security and Exchange Act Release No. 66557 (March 9, 2012), 77 FR 15405 (March 15, 2012) (SR–EDGA–2012–06).

[5] *See* the User Agreement posted to the Exchange's Web site at: *http://www.directedge.com/Portals/0/docs/MembDocs/EDGA%20Complete%20Exch%20Appl%201%20%28V%202.0%29.pdf.*

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] *See also,* the late fees listed on the Chicago Board Options Exchange's fee schedule at: *http://www.cboe.com/publish/feeschedule/*

Continued

The Exchange believes that the proposal is non-discriminatory because it applies to all Members.

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2012–20 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–EDGA–2012–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2012–20 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14344 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

CBOEFeeSchedule.pdf; and NASDAQ Rule 7032 regarding late fees.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67155; File No. SR–NYSEAmex–2012–22]

Self-Regulatory Organizations; NYSE Amex LLC; Order Granting Approval of Proposed Rule Change Amending NYSE Amex Equities Rule 107B To Add a Class of Supplemental Liquidity Providers That are Registered as Market Makers at the Exchange

June 7, 2012.

I. Introduction

On April 17, 2012, NYSE Amex LLC (''NYSE Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Amex Equities Rule 107B to add a class of Supplemental Liquidity Providers (''SLP'') that are registered as market makers at the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 23, 2012.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NYSE Amex Equities Rule 107B (''Rule 107B'') was adopted as a pilot program in January 2010 and established a new class of off-floor market participants referred to as Supplemental Liquidity Providers or ''SLPs.'' [4] Approved Exchange member organizations are eligible to be an SLP. SLPs supplement the liquidity provided by Designated Market Makers (''DMM''). SLPs have monthly quoting requirements that may qualify them to receive SLP rebates, which are larger than the general rebate available to non-SLP market participants.[5]

To qualify as an SLP under Rule 107B(c), a member organization is subject to a number of conditions, including adequate trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 66820 (April 17, 2012), 77 FR 24236 (''Notice'').

[4] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex–2009–98). The pilot is currently scheduled to end on July 31, 2012.

[5] Rule 107B(a) requires that an SLP maintain a bid and/or an offer at the national best bid (''NBB'') or national best offer (''NBO'') averaging at least 5% of the trading day for each assigned security. Meeting this volume requirement will enable an SLP to receive the basic SLP rebate (currently $0.0032 per executed share) on a security-by-security basis and to maintain their SLP status.

infrastructure to support SLP trading activity, quoting and volume performance that demonstrates an ability to meet the 5% average quoting requirement, and use of specified SLP mnemonics. In addition, the business unit of the member organization acting as an SLP must enter proprietary orders only and have adequate information barriers between the SLP unit and any of the member organization's customer, research, and investment-banking business. Pursuant to Rule 107B(g)(2)(A), a DMM may also be an SLP, but not in the same securities in which it is registered as a DMM.

Proposed SLP Market Makers

The Exchange proposes to amend Rule 107B to add a category of SLPs that would be registered as market makers at the Exchange. As proposed, the term ''SLP'' would refer to member organizations that provide supplemental liquidity and there would be two classes of SLP. The existing SLP member organizations and associated requirements would continue unchanged and would be referred to as ''SLP–Prop.''

The proposed new class of SLP would be referred to as ''SLMM''. SLMMs would have differing qualification requirements and increased regulatory obligations as compared to SLP–Props, but would otherwise be subject to the existing SLP program.

Under the proposal, an SLP can choose to be either an SLP–Prop or an SLMM. The proposed SLMMs would have different qualification requirements, specified regulatory obligations, expanded entry of order requirements, and a security-by-security withdrawal ability. SLP–Props and SLMMs would be subject to the same application and overall program withdrawal process, quoting requirements, manner by which SLP securities are assigned, and non-regulatory penalties.

To be approved as an SLMM, an SLMM must meet specified regulatory obligations, which are set forth in proposed Rule 107B(d). Failure to comply with these regulatory obligations could result in disciplinary action. First, pursuant to proposed Rule 107B(d)(1), the SLMM must maintain a continuous two-sided quotation in those securities in which the SLMM is registered to trade as an SLP (''Two-Sided Obligation''). As proposed, the Two-Sided Obligation applicable to SLMMs would be virtually identical to the market-maker two-sided obligations adopted by the equities markets in 2010.[6] Second, pursuant to proposed Rule 107B(d)(2), the SLMM would be required to maintain net capital in accordance with the provisions of Rule 15c3–1 under the Act, which specifies the capital requirements for market makers.[7] Finally, pursuant to proposed Rule 107B(d)(3), the SLMM would be required to maintain unique mnemonics specifically dedicated to SLMM activity. Use of these unique mnemonics will enable SLMMs to meet their requirement under proposed Rule 107B(d)(1)(A) to identify their market-making activity to the Exchange. As proposed, such mnemonics may not be used for trading in securities other than SLP Securities assigned to the SLMM.

Pursuant to Rule 107B(c)(6), SLPs must currently maintain adequate information barriers between the SLP unit and the member organization's customer, research and investment-banking business. This requirement ensures that the orders submitted by SLPs are proprietary only, and are not related to any customer-facing business, including potentially market-making businesses. The Exchange proposes to maintain this requirement for SLP–Props.

Proposed Rule 107B(i) would modify the entry of order requirements. SLP–Prop would continue to be required to enter proprietary orders only. As proposed, SLMMs would similarly be required to enter orders for their own account, however, they could be entered in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person. SLMM could submit SLMM quotes to the Exchange on behalf of customers, or other unaffiliated or affiliated persons.

The Exchange proposes to add an additional ability for SLMMs to voluntarily withdraw from registration as a market maker in a particular security. Under proposed Rule 107B(f)(2), an SLMM may withdraw its registration in a security by giving written notice to the SLP Liaison Committee and FINRA. As proposed, the Exchange may require a certain minimum notice period for withdrawal, and may place such other conditions on withdrawal and re-registration following withdrawal, as it deems appropriate in the interests of maintaining fair and orderly markets. An SLMM that fails to give advanced written notice of termination to the Exchange may be subject to formal disciplinary action.

Under proposed Rule 107B(h), an SLP–Prop may not also act as an SLMM in the same securities in which it is registered as an SLP–Prop and vice versa. If a member organization has more than one business unit, and the SLP–Prop business unit is walled off from the SLMM business unit, the member organization may engage in both an SLP–Prop and SLMM business from those different business units. Provided there is no coordinated trading between the SLP–Prop and SLMM business units, they may be assigned the same securities.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that adding an additional registered market maker program to the Exchange will promote just and equitable principles of trade as it could potentially expand the number of market participants providing liquidity at the Exchange, to the benefit of investors. In particular, the proposal would allow additional market participants, including member organizations that are registered as market makers on other exchanges that engage in a customer-facing business, to participate in the SLP program.

[6] *See* Securities Exchange Act Release No. 63255 (Nov. 5, 2010), 75 FR 69484 (Nov. 12, 2010) (SR–BATS–2010–025; SR–BX–2010–66; SR–CBOE–2010–087; SR–CHX–2010–22; SR–FINRA–2010–049; SR–NASDAQ–2010–115; SR–NSX–2010–12; SR–NYSE–2010–69; SR–NYSEAmex–2010–96; and SR–NYSEArca–2010–83) (order approving enhanced quoting requirements for market makers).

[7] 17 CFR 240.15c3–1. For purposes of that rule, the term ''market maker'' is defined as ''a dealer who, with respect to a particular security, (i) Regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.'' 17 CFR 240.15c3–1(c)(8).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

The proposed SLMMs would provide supplemental liquidity in addition to the liquidity provided by DMMs and SLP–Props, and the Exchange would continue to require that a DMM be registered in every security listed on the Exchange. Because the proposed SLMMs would be required to meet the Two-Sided Obligation applicable to all equities market makers, the Commission believes that the proposed rule change would also remove impediments to and perfect the mechanism of a free and open market and a national market system by increasing the number of market participants that are required to maintain a continuous two-sided quotation a specified percentage away from the NBBO in the securities in which they are registered. Moreover, the proposed SLMM would be subject to other currently existing requirements.

The Commission finds that the proposal is not unfairly discriminatory. Registration as an SLP–Prop or SLMM is available to all Exchange member organizations that satisfy the requirements of proposed Rule 107B(c) or (d). The Commission finds further that the proposal to establish procedures for the registration, withdrawal, and disqualification of SLMM, and the SLMM quoting requirements, are consistent with the requirements of Section 6(b)(5) of the Act. The Exchange's proposed rules provide an objective process by which a member organization could become a SLMM and for appropriate oversight by the Exchange to monitor for continued compliance with the terms of these provisions. The Commission also notes that these provisions are similar to the existing provisions that apply to the current SLP program.

In addition, the Commission believes that the proposed rule change is consistent with the requirements of the Act because the proposed requirements for the SLMMs are based on existing, approved requirements for registered market makers on other exchanges. In addition to the Two-Sided Obligation, the proposed SLMMs would also be required to assist in the maintenance of a fair and orderly market, as reasonably practicable, and maintain net capital consistent with federal requirements for market makers.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSEAmex–2012–22) be, and it hereby is, approved.

[10] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14338 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67162; File No. SR–BATS–2012–019]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Exchange Rule 11.19, Entitled ''Short Sales''

June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 24, 2012, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Exchange Rule 11.19, entitled ''Short Sales,'' to adopt certain changes related to Regulation SHO in connection with the Exchange's recent status as the primary listing market for certain securities.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 26, 2010, the Commission adopted amendments to Rules 200(g) and 201 of Regulation SHO.[3] Rule 201 of Regulation SHO, as amended, requires trading centers [4] such as the Exchange to establish, maintain, and enforce certain written policies and procedures reasonably designed to comply with the rule.[5] The Exchange has proposed and received approval of rule changes [6] in connection with the amendments to Rules 201 and 200 of Regulation SHO that were implemented in 2011.[7] The Exchange recently began operation as a primary listing market of certain securities, and is thus proposing additional rules in connection with Regulation SHO, as amended.

Proposed Exchange Rule 11.19(b)(1), ''Definitions,'' defines the terms ''covered security,'' ''listing market,'' and ''national best bid'' as having the same meaning as such terms have in Rule 201 of Regulation SHO.[8]

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.200(g); 17 CFR 242.201. *See* Securities Exchange Act Release No. 61595 (Feb. 26, 2010), 75 FR 11232 (Mar. 10, 2010) (''Adopting Release'') (amending Rules 201 and 200 of Regulation SHO to adopt a short sale price test restriction and ''short exempt'' marking requirement).

[4] Rule 201(a)(9) states the term ''trading center'' will have the same meaning as in Rule 600(b)(78). 17 CFR 242.201(a)(9). Rule 600(b)(78) of Regulation NMS defines a ''trading center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' 17 CFR 242.600(b)(78).

[5] *See* 17 CFR 242.201(b). The amendments to Rule 200(g) of Regulation SHO provide a ''short exempt'' marking requirement. *See* 17 CFR 242.200(g).

[6] *See* Securities Exchange Act Release No. 63948 (Feb. 23, 2011), 76 FR 11303 (Mar. 1, 2011) (SR–BATS–2011–002). *See* Rule 11.9(g)(2), which describes the handling of orders pursuant to Exchange ''short sale price sliding'' functionality in connection with the short sale price test restriction; *see also,* Rule 11.13, which codifies in the Exchange's rules the execution restrictions of Rule 201; *see also* Rule 11.19, which requires marking of short sale orders as either ''short'' or ''short exempt.''

[7] *See supra* note 3; *see also* Securities Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010) (extending the compliance date of the amendments to Rules 201 and 200 of Regulation SHO until February 28, 2011).

[8] *See* Rule 201(a) of Regulation SHO. The System will utilize the national best bid from the systems

Under Proposed Exchange Rule 11.19(b)(2), Short Sale Price Test, the System [9] will not execute or display a short sale order with respect to a covered security at a price that is less than or equal to the current national best bid if the price of that security decreases by 10% or more from the security's closing price on the listing market as of the end of regular trading hours on the prior day (''Trigger Price'').[10] For covered securities for which the Exchange is the listing market, the BATS Official Closing Price for each security is established by the Exchange pursuant to procedures set forth in Exchange Rule 11.23.[11]

Under Proposed Exchange Rule 11.19(b)(3), ''Determination of Trigger Price,'' the Exchange will continuously compare each execution by the System with the BATS Official Closing Price [12] and alert the single plan processor [13] when a Trigger Price has been reached.[14] The single plan processor will then disseminate a notice to market participants in accordance with procedures established by the single plan processor. When the single plan processor disseminates such notice, the Exchange will systematically apply the short sale price test restriction for short sale orders in the covered security in the manner described in Proposed Exchange Rule 11.19(b)(2).

Under Proposed Exchange Rule 11.19(b)(4), ''Duration of Short Sale Price Test,'' once triggered, the short sale price test restriction shall remain in effect until the next trading day when a national best bid for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effect [sic] national market system [sic],[15] as provided for in Regulation SHO Rule 201(b)(1)(ii) (the ''Short Sale Period''). There are two exceptions in the proposed rule.[16] First, if the Exchange determines pursuant to Proposed Exchange Rule 11.19(b)(4)(A) that the short sale price test restriction for a covered security was triggered because of a clearly erroneous execution,[17] the Exchange may lift the short sale price test restriction before the Short Sale Period ends for covered securities for which the Exchange is the listing market.[18] The Exchange also proposes to include language in Exchange Rule 11.19(b)(4)(A) to provide that the Exchange may also lift the short sale price test restrictions before the Short Sale Period ends, for covered securities for which the Exchange is the listing market, if the Exchange has been informed by another exchange or self-regulatory organization (''SRO'') that a transaction in the covered security that occurred at the Trigger Price was a clearly erroneous execution, as determined by that exchange or SRO under its rules.[19] Second, if the Exchange determines pursuant to Proposed Exchange Rule 11.19(b)(4)(B) that the prior day's closing price for a covered security is incorrect in the System and resulted in an incorrect determination of the Trigger Price, the Exchange may correct the prior day's BATS Official Closing Price and lift the short sale price test restriction before the Short Sale Period ends.

The proposed language for Exchange Rule 11.19(b) is substantively identical to paragraphs (a) through (d) of Rule 4763 of the rules of The NASDAQ Stock Market LLC (''Nasdaq''), paragraphs (a) through (d) of Rule 440B of the rules of the New York Stock Exchange, LLC (''NYSE'') and sub-paragraphs (i) through (iv) of Rule 7.16(f) of the rules of NYSE Arca Equities, Inc. (''NYSE Arca''). The Exchange has separately adopted rules implementing other aspects related to the amendments to Regulation SHO, which are described in the remainder of Nasdaq Rule 4763, NYSE Rule 440B and NYSE Arca Rule 7.16.[20]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[21] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[22] because it would promote just and equitable principles of trade. Regulation SHO, among other purposes, was implemented to help to strengthen investor confidence in the markets and, thus, was intended to enhance and promote capital formation.[23] The Exchange believes that the proposed rule promotes just and equitable principles of trade in that it implements rules adopted by the Commission in

information processor. Rule 201(a)(1) defines ''covered security'' to mean any ''NMS stock'' as defined under Rule 600(b)(47) of Regulation NMS. 17 CFR 242.201(a)(1). Rule 600(b)(47) of Regulation NMS defines an ''NMS stock'' as ''any NMS security other than an option.'' 17 CFR 242.600(b)(47). Rule 600(b)(46) of Regulation NMS defines an ''NMS security'' as ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' 17 CFR 242.600(b)(46).

[9] *See* Exchange Rule 1.5(aa). The term ''System'' means the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

[10] *See* Rule 201(b)(1)(i) of Regulation SHO. Such execution or display needs to be in compliance with applicable rules concerning minimum pricing increments. *See* 17 CFR 242.612.

[11] *See* Exchange Rule 11.23. The Closing Auction for any BATS listed security will occur at 4:00 p.m. EST on each day when the Exchange is open for business. The Exchange's Closing Auction establishes the Closing Auction price by determining the price level that maximizes the number of shares of eligible interest that can be executed, subject to certain price collars.

[12] Under Proposed Rule 11.19(b)(3)(B), if a covered security did not trade on the Exchange on the prior trading day (due to a trading halt, trading suspension, or otherwise), the Exchange's determination of the Trigger Price shall be based on the last sale price on the Exchange for that security on the most recent day on which the security traded. *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 3.1.

[13] *See* 17 CFR 242.201(a)(6).

[14] *See* Rule 201(b)(3) of Regulation SHO. *See* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 1.1 (explaining calculation of the Trigger Price).

[15] *See* 17 CFR 242.201(b)(1)(ii). *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 2.1.

[16] If the price of a covered security declines intra-day by at least 10% on a day on which the security is already subject to the short sale price test restriction of Rule 201, the restriction will be re-triggered and, therefore, will continue in effect for the remainder of that day and the following day. *See* Adopting Release, 75 FR at 11253, n. 290. In addition, Rule 201 does not place any limit on the frequency or number of times the circuit breaker can be re-triggered with respect to a particular stock. *See* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, Q&A No. 2.2.

[17] *See* Exchange Rule 11.17, which sets forth the standards for determining when a trade is ''clearly erroneous.'' The terms of a transaction executed on the Exchange are ''clearly erroneous'' when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. A transaction made in clearly erroneous error and cancelled by both parties or determined by the Exchange to be clearly erroneous will be removed from the consolidated tape.

[18] *See* 17 CFR 242.201(a)(3).

[19] The Exchange will only lift the short sale price test restrictions before the Short Sale Period ends under these circumstances when informed by another exchange or SRO that a triggering transaction has been determined to be a clearly erroneous execution under the rules of the exchange or SRO, consistent with the authority of that exchange or SRO for making such determinations.

[20] *See supra* note 6.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] The Commission notes that Rule 201 of Regulation SHO was adopted to prevent short selling, including potentially manipulative or abusive short selling, from driving down further the price of a security that has already experienced a significant intra-day price decline, facilitate the ability of long sellers to sell first upon such a decline and address erosions in investor confidence.

Regulation SHO under the Act. The proposed rule change is also consistent with Section 11A(a)(1) of the Act [24] in that it seeks to assure fair competition among brokers and dealers and exchange markets.[25] The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes uniformity across listing markets concerning the application of Regulation SHO, as amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6)(iii) thereunder.[27]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[28] The Commission notes the proposal is substantially similar to and based on the rules of other exchanges,[29] and does not raise any new regulatory issues. In addition, the Exchange's operation as a listing market for certain securities requires it to comply with the provisions of Rule 201 of Regulation SHO. Codification within the Exchange's rules of the provisions of Rule 201 of Regulation SHO as described above will help to avoid any confusion regarding the Exchange's status as a listing market, including, but not limited to, the manner in which the Exchange calculates the Trigger Price and the Exchange's ability to lift a Short Sale Price Test in the event it was triggered by a clearly erroneous execution. Accordingly, waiver of the operative delay will help to ensure uniformity across listing markets concerning the application of Rule 201 of Regulation SHO. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2012–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2012–019. 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 changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2012–019 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14405 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78k–1(a)(1).

[25] *See supra* note 3.

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] *See, e.g.,* Nasdaq Rule 4763(a)–(d); NYSE Rule 440B(a)–(d); NYSE Arca Rule 7.16(f)(i)–(iv).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67152; File No. SR–CBOE–2012–013]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change To Adopt Self-Trade Prevention Modifiers on the CBOE Stock Exchange

June 7, 2012.

I. Introduction

On April 12, 2012, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Self-Trade Prevention modifiers on the CBOE Stock Exchange (''CBSX''). The proposed rule change was published for comment in the **Federal Register** on May 1, 2012.[3] The Commission received no comment letters on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66860 (April 25, 2012), 77 FR 25767 (''Notice'').

This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt Cancel Newest, Cancel Oldest, and Cancel Both Self-Trade Prevention modifiers on CBSX. As proposed, a CBSX trader may elect for none, or all, of his proprietary orders and quotes to be marked with one of these types of Self-Trade Prevention modifiers.[4] If a CBSX trader makes an election, any quote or order he submits will be prevented from executing against a resting opposite side order or quote that is labeled as originating from the same associated acronym and trading for the same account (''Same CBSX Trader'').

If a CBSX trader elects the Cancel Newest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. The incoming order or quote (or any portion thereof) will be canceled back to the originating CBSX trader if such order or quote cannot trade with another eligible order or quote originating from any origin other than the Same CBSX Trader (''Another CBSX Trader''). The incoming order or quote may only trade with an eligible order or quote originating from Another CBSX Trader if the order or quote originating from Another CBSX Trader is at as good a price as the order or quote from the Same CBSX Trader that is being ''skipped over.'' The resting order or quote from the Same CBSX Trader will remain on the book. In the case of an opening or re-opening, the newer of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The older order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will remain in the book.[5]

If a CBSX trader elects the Cancel Oldest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote will be eligible to trade with another eligible order or quote originating from Another CBSX Trader. If any portion of the incoming order or quote does not trade with another eligible order or quote originating from Another CBSX Trader, it will be entered into the book. In the case of an opening or re-opening, the older of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The newer order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will be entered into the book.[6]

If a CBSX trader elects the Cancel Both Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote (or any portion thereof) will be canceled back to the Same CBSX Trader if such order or quote (or part of such order or quote) cannot trade with another eligible order or quote originating from Another CBSX Trader. In the case of an opening or re-opening, both of the two orders or quotes will be canceled.[7]

Under the proposed Self-Trade Prevention modifier rules, orders or quotes may skip over orders or quotes from the Same CBSX Trader and trade against eligible orders or quotes with lower priority that originate from Another CBSX Trader, provided the prices are the same. Therefore, the Exchange proposes to add Interpretations and Policies .01 to Rule 52.1, Matching Algorithm/Priority, to provide that in instances in which the Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades, as described in the proposed Self-Trade Prevention modifier rule.

Finally, CBSX Rule 51.8(t) provides for a Market-Maker Trade Prevention Order which, if combined with a Self-Trade Prevention modifier, could cause a conflict in order handling. Thus, the Exchange proposes that, in circumstances where both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence.

Once the CBSX system is enabled to permit the use of Self-Trade Prevention modifiers, and prior to their implementation, CBSX will announce the availability of Self-Trade Prevention modifiers to CBSX traders via Regulatory Circular.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Self-Trade Prevention modifiers for proprietary orders and quotes of CBSX traders are, according to the Exchange, designed to prevent a market participant from unintentionally causing a proprietary self-trade. As such, Self-Trade Prevention modifiers could provide firms with the opportunity to better manage order flow and prevent undesirable self-executions and the potential for, or appearance of, ''wash sales.'' [10] The Exchange further notes that Self-Trade Prevention modifiers may reduce false positive results on Exchange-generated wash trading surveillance reports when orders are executed by the Same CBSX Trader, which would increase regulatory efficiency.

The proposed Self-Trade Prevention modifier rules will apply to orders and quotes because the Exchange believes

[4] According to the Exchange, a CBSX trader may only elect for one of the three types of Self-Trade Prevention modifiers, as the CBSX system may only be configured to permit one such election. In addition, Self-Trade Prevention elections cannot be made on a per-order, per-quote, or security-by-security basis due to CBSX system limitations.

[5] The Exchange notes that orders marked with Self-Trade Prevention modifiers will be treated differently during openings and re-openings because of system limitations. The CBSX system cannot process orders marked with Self-Trade Prevention modifiers in the same manner during openings and re-openings as during regular trading.

[6] *See id.*

[7] *See id.*

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] CBSX traders may have multiple connections into CBSX, and orders routed by the same CBSX trader via different connections may, in certain circumstances, trade against each other. The proposed Self-Trade Prevention modifiers could provide CBSX traders the opportunity to prevent these potentially undesirable trades. *See* Notice, 77 FR at 25769.

the application of these rules to quotes, as well as orders, would allow the modifiers to be used in a more complete, comprehensive, and consistent manner.[11] The Commission finds that this is reasonable and consistent with the Act. In addition, the Exchange states that it chose to limit Self-Trade Prevention modifiers to proprietary orders and quotes.[12] This would allow agency orders for the Same CBSX Trader, which may actually be for different customers, to continue to trade with each other.

The Commission also believes that the aspect of the proposal which would add Interpretations and Policies .01 to Rule 52.1 to provide that in circumstances where Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades is consistent with the Act. In addition, the Commission believes that the proposal to amend Rule 51.8(t) to provide that in circumstances in which both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence is consistent with the Act. The Commission believes that these amendments would clarify the application of the proposed Self-Trade Prevention modifier rules to existing CBSX rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–2012–013) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14335 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[11] Other exchanges apply similar modifiers to orders only. *See, e.g.,* NYSE Arca Equities Rule 7.31(qq); BATS Rule 11.9(f).

[12] Other exchanges do not specify that their modifiers are limited to proprietary orders. *See id.*

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67160; File No. SR–EDGA–2012–19]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

DATES: June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 29, 2012 the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange proposes to introduce the Message Efficiency Incentive Program (''MEIP'') to its fee schedule and codify it in footnote c of the fee schedule. Under the MEIP, Members will receive standard rebates and tier rebates as provided on the EDGA fee schedule so long as the Member's average inbound message-to-trade ratio, measured monthly, is at or less than 100:1 for that month. The Exchange notes that the message-to-trade ratio is calculated by including total messages as the numerator (orders, cancels, and cancel/replace messages) and dividing it by total executions.[4] The Exchange also notes that any cancel/replace message, regardless of whether it is a partial cancel, is considered a new order. Members who do not satisfy this criteria will have their rebates reduced by $0.0001 per share, regardless of any tiers for which the Member would otherwise qualify.

The Exchange notes that Members sending fewer than 1 million messages per day are exempt from MEIP. Because of a Market Maker's [5] importance in liquidity provision and their ongoing obligations in Rule 11.21(d) [6] to maintain continuous two-sided interest, Members that are registered as Market Makers [7] will be exempt from the MEIP requirements in all securities provided that a Market Maker is registered in at least 100 securities over the course of a given month and is meeting its continuous, two-sided quoting obligations in those 100 securities as provided for in Rule 11.21(d) on at least 10 consecutive trading days in the month, where the Exchange believes that 10 days represents a consistent quoting obligation from the Member.[8]

[4] The Exchange notes that it counts only the first partial or complete execution resulting from an order if it is filled in parts. So, if a 1,000 share orders results in three partial executions of 400 shares, 300 shares, and 300 shares, it counts only the first execution of 400 shares toward the denominator. Thus, the Exchange counts all fills against an order as one trade for purposes of ''total executions.''

[5] As defined in Rule 1.5(l).

[6] Rule 11.21(d) provides that ''For each security in which a Member is registered as a Market Maker, the Member shall be willing to buy and sell such security for its own account on a continuous basis during Regular Trading Hours shall enter and maintain a two-sided trading interest (''Two-Sided Obligation'') that is displayed in the Exchange's System at all times.''

[7] Registration requirements for Market Makers are outlined in Rule 11.20.

[8] The Exchange notes that all registered Market Makers are obligated to meet continuous, two-sided

Because a Member's trading activity is not segregated by market participant identifiers (MPID), the Market Making exemption applies to the parent firm and all wholly owned affiliates upon the satisfaction of the Market Maker exemption criteria by one MPID. All MPIDs that are wholly-owned affiliates are exempt from the MEIP as long as one MPID satisfies the criteria for an exemption under market making. In recognition of the value that the Exchange derives from such market making, any Member that meets the market making obligations pursuant to Rule 11.21(d) on at least 10 consecutive trading days in the month will be exempt from a MEIP rebate reduction.

The Exchange may exclude one or more days of data for purposes of calculating the message-to-trade ratio for a Member if the Exchange determines, in its sole discretion, that one or more Members or the Exchange experienced a bona fide systems problem.[9] Any Member seeking relief as a result of a systems problem will be required to notify the Exchange via email with a description of the systems problem. The Exchange shall keep a record of all such requests and whether the request was deemed by the Exchange to be a bona fide systems problem resulting in waiving that day's activity from the calculation of the message-to-trade ratio.

The Exchange proposes to implement these amendments to its fee schedule on June 1, 2012.

Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange believes that the MEIP is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the MEIP will promote a more efficient marketplace and enhance the trading experience of all Members by encouraging Members to more efficiently participate in the marketplace, ensuring that systems capacity/bandwidth is utilized efficiently while still encouraging the provision of liquidity in volatile, high-volume markets and provide Members with order management flexibility. Unfettered growth in bandwidth consumption can have a detrimental effect on all market participants who are potentially compelled to upgrade capacity as a result of the bandwidth usage of other participants. All Members are still free to manage their order and message flow as is consistent with their business models. However, Members who more efficiently participate by sending average monthly inbound message-to-trade ratios of equal to or less than 100:1 for that month are rewarded with the standard rebates and tiered fees provided in the fee schedule. The Exchange believes that this will promote a more efficient marketplace, encourage liquidity provision and enhance the trading experience of all Members on an ongoing basis. The Exchange notes that its technology and infrastructure are still able to handle high-volume and high-volatility situations for those Members that do not satisfy the criteria of the MEIP. The Exchange believes that the proposal is equitable and non-discriminatory in that it applies uniformly to all Members, except with respect to its Members that are registered as Market Makers who meet certain criteria, as discussed in more detail below.

The MEIP is also reasonable in that it is similar to other programs offered by equities exchanges, namely Nasdaq OMX (''Nasdaq''), NYSE, and NYSE Arca. The Exchange believes the MEIP encourages Members to avoid sending extraneous messages to the Exchange's system and thereby encourages more efficient amounts of liquidity to be added to EDGA each month. The Exchange believes that the MEIP will thus discourage trading practices that offer little benefit from liquidity posted to or routed through the EDGA book that may place unwarranted burdens on EDGA's systems. Such increased ''efficient'' volume lowers operational, bandwidth, and surveillance costs of the Exchange and promotes more relevant quotes, which may result in lower per share costs for all Members. The increased liquidity also benefits all investors by deepening EDGA's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

In addition, the rebate is also reasonable in that other exchanges likewise employ similar pricing mechanisms. For example, Nasdaq [12] and NYSE Arca [13] offer investor support programs and investor tiers, respectively. Such programs reward liquidity provision attributes and encourage price discovery by encouraging a low cancellation rate on liquidity-providing orders. MEIP is similar to Nasdaq's/NYSE Arca's programs in they both encourage efficient liquidity provision. It is similar to Nasdaq's Investor Support Program in that for Nasdaq members to qualify, among a firm's liquidity-providing

quoting obligations under Rule 11.21(d) whether or not they qualify for the exemption under the MEIP.

[9] An example of bona fide systems problem includes, but is not limited to, an Exchange systems problem that causes a Member to continually attempt to update or withdraw its orders, generating a large volume of traffic. In those cases, where the bona fide systems problem is at the Exchange, the Exchange will exclude the day's activity from the calculation of the message-to-trade ratio for all Members that were impacted by the bona fide systems problem. *See* Securities Exchange Act Release No. 65341 (September 14, 2011), 76 FR 58555 (September 21, 2011) (SR–NYSEAmex–2011–68) for substantially similar exclusions from their ''Messages Fee.''

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] *See* Nasdaq Rule 7014. Similarly, Nasdaq established an Investor Support Program (''ISP'') targeting retail and institutional investor orders where firms receive a higher rebate if they meet all of the following criteria: (1) Add at least 10 million shares of liquidity per day via ISP-designated ports; (2) Maintain a ratio of orders-to-orders executed of less than 10 to 1 (counting only liquidity-providing orders and excluding certain order types) on ISP-designated ports; (3) Exceed the firm's August 2010/2011 ''baseline'' volume of liquidity added across all the firm's ports. For a detailed description of the Investor Support Program as originally implemented, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (SR–Nasdaq–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (SR–Nasdaq–2010–153) (notice of filing and immediate effectiveness); 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (SR–Nasdaq–2010–154) (notice of filing and immediate effectiveness); 63891 (February 11, 2011), 76 FR 9384 (February 17, 2011) (SR–Nasdaq–2011–022) (notice of filing and immediate effectiveness); and 64050 (March 8, 2011), 76 FR 13694 (March 14, 2011) (SR–Nasdaq–2011–034). *See also* Securities Exchange Act Release No. 65717 (November 9, 2011), 76 FR 70784 (November 15, 2011) (SR–Nasdaq–2011–150).

[13] NYSE Arca also implemented investor tiers where they allow Members to earn a credit of $0.0032 per share for executed orders that provide liquidity to the Book for Tape A, Tape B and Tape C securities when they meet all of the following criteria on a monthly basis: (1) Maintain a ratio of cancelled orders to total orders of less than 30%; (2) Maintain a ratio of executed liquidity adding volume to total volume of greater than 80%; and (3) Firms must add liquidity that represents 0.45% or more of the total US average daily consolidated share volume (''ADV'') per month (volume on days when the market closes early is excluded from the calculation of ADV). *See* Securities Exchange Act Release No. 64593 (June 3, 2011), 76 FR 33380 (June 8, 2011) (SR–NYSEArca–2011–34); Securities Exchange Act Release No. 66115 (January 6, 2012), 77 FR 1969 (January 12, 2012) (SR–NYSEArca–2011–101) (notice of filing and immediate effectiveness of a proposed rule change replacing numerical thresholds with percentage thresholds for the Investor Tiers' volume requirements). *See also* Securities Exchange Act Release No. 66378 (February 10, 2012), 77 FR 9278 (February 16, 2012) (SR–NYSEArca–2012–13).

orders, it must maintain a ratio of ''orders'' to ''orders executed'' of less than ten to one (i.e., at least one out of every ten liquidity-providing orders submitted must be executed rather than cancelled). Similarly, NYSE Arca's investor tiers require its members to maintain a ratio of cancelled orders to total orders of less than 30% and maintain a ratio of executed liquidity adding volume to total volume of greater than 80%, among other criteria. The MEIP is similar to NYSE Arca's investor tiers in that like NYSE Arca's investor tiers, the Exchange's goal is to incentivize Members to maintain low cancellation rates and provide liquidity that supports the quality of price discovery and promotes market transparency. In addition, similar to the investor tiers of NYSE Arca, the MEIP ''reward[s] providers whose orders stay on the [b]ook and do not rapidly cancel a large portion of their orders placed, which makes the price discovery process more efficient and results in higher fill rates, greater depth and lower volatility. It serves to encourage customers to post orders that are more likely to be executed.'' [14]

The MEIP is also similar to Nasdaq's ''excessive message fee'', in which Nasdaq charges a per order fee for its members that make inefficient use of certain features of Nasdaq's routing facility.[15] When Nasdaq members route to the NYSE after having their orders check the Nasdaq book, they may designate their orders as eligible for posting to the Nasdaq book after accessing available liquidity at NYSE and elsewhere, or they may designate their orders for posting the NYSE book. Nasdaq's excessive message fee applies to round lot or mixed lot orders that attempt to execute on Nasdaq for the full size of the order prior to routing, but that are designated as not eligible to post on Nasdaq (''DOTI Orders''). If a member sends an average of more than 10,000 DOTI Orders per day during the month, and the ratio between total DOTI Orders and DOTI Orders that are fully or partially executed (either at Nasdaq or NYSE) exceeds 300 to 1, then the Nasdaq member will be charged a fee of $ 0.01 for each order that exceeds the ratio.

Similar to the Exchange, Nasdaq introduced the excessive message fee to encourage more efficient liquidity provision—namely, ''to address the practice of [its] members routing an order to the NYSE book through NASDAQ and quickly cancelling the order and resubmitting it at a different price if it does not execute within a short period of time. The practice offers no benefits in terms of liquidity posted to the NASDAQ book or execution or routing revenues, and could place unwarranted burdens on NASDAQ routing systems.'' [16] Nasdaq stated that ''Members wishing to continue to use this routing strategy may do so through other means of routing to NYSE, but will be discouraged from doing so through NASDAQ systems.'' [17] The Exchange shares these same objectives in introducing MEIP.

The MEIP is also similar to the NYSE Amex options exchange's ''Messages Fee,'' which promotes efficient usage of system capacity by assessing a fee against its members that enter excessive amounts of orders and quotes that produce little or no volume based on the ratio of quotes and orders to contracts traded. Like NYSE Amex, the Exchange believes it is in the best interest of all Members who access its markets to encourage efficient usage of capacity.[18] In addition, the MEIP is also similar to a host of other options exchanges that assess cancellation fees based on the number of order cancellations, as such high cancellations increases these market centers' costs by requiring them to spend increased amounts on systems and other hardware to process increased order traffic flow.[19]

Finally, the lower rebates offered to Members who do not satisfy the MEIP criteria allows the Exchange to recoup costs associated with the higher costs of surveillance, data, storage, bandwidth, and other infrastructure associated with higher message traffic compared to those Members with lower message traffic. The Exchange believes it to be equitable for Members to get lower rebates when their higher message traffic causes the Exchange to incur higher costs and for Members to receive higher rebates when their message traffic causes the Exchange to incur lower costs.

The Exchange believes that the proposal is allocated in a reasonable and equitable manner because it exempts Members that are registered as Market Makers that contribute to market quality by providing higher volumes of liquidity and have enhanced obligations under Exchange Rule 11.21(d) to maintain fair and orderly markets and quote continuous, two-sided markets. The proposal is equitable because it provides discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that allowing Market Makers to be exempt from the MEIP will attract additional order flow and liquidity to the Exchange. This concept is similar to the structure of varying rebate schedules on other exchanges, where it is common to tie rebates to market making obligations. For example, rewarding Market Makers with better rebates tied to their market making obligations is consistent with how Supplemental Liquidity Providers (''SLPs'') and Designated Market Makers (''DMMs'') are rebated on NYSE [20] and Lead Market Makers (''LMMs'') are rebated on NYSE Arca.[21] NYSE offers rebates to Designated Market Makers ranging from $0.0004 per share to $0.0035 per share and to Supplemental Liquidity Providers ranging from $0.0010 per share to $0.0024 per share. NYSE Arca offers rebates to its market makers ranging from $0.001 per share to $0.0015 per share and to its Lead Market Makers ranging from $0.004 per share to $0.0045 per share. In addition, the NYSE Amex's messages to contracts traded ratio fee allows its market makers to have incentives, but incorporate a higher level of message traffic before its fees take effect. Like the Exchange, NYSE Amex felt that the ''higher level of free message traffic [was] appropriate due to the quoting obligations incurred by market makers and their importance as liquidity providers in the options market.'' [22] In addition, Members that send less than 1 million messages/day are exempt from this reduction in rebate under the MEIP as well. The Exchange believes this to be equitable and

[14] *See* Securities Exchange Act Release No. 64593 (June 3, 2011), 74 FR 33380 (June 8, 2011) (SR–NYSEArca–2011–34).

[15] *See* Securities Exchange Act Release No. 59455 (February 25, 2009), 74 FR 9457 (March 4, 2009) (SR–NYSEArca–2009–013).

[16] *Id.*

[17] *Id.*

[18] *See* Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR–NYSEAmex–2011–37); *See also* Securities Exchange Act Release No. 65341 (September 14, 2011), 76 FR 58555 (September 21, 2011) (SR–NYSEAmex–2011–68).

[19] *See* Securities and Exchange Act Release No. 62744 (August 19, 2010), 75 FR 52558 (August 26, 2010) (SR–Phlx–2010–105); Securities and Exchange Act Release No. 53226 (February 3, 2006), 71 FR 7602 (February 13, 2006) (SR–Phlx–2005–92); Securities and Exchange Act Release No. 49802 (June 3, 2004), 69 FR 32391 (June 9, 2004) (SR–PCX–2004–31); Securities and Exchange Act Release No. 46189 (July 11, 2002), 67 FR 47587 (July 19, 2002) (SR–ISE–2002–16); Securities and Exchange Act Release No. 44607 (July 27, 2001), 66 FR 40757 (August 3, 2001) (SR–CBOE–2001–40).

[20] *See* NYSE Price List 2012.

[21] *See* NYSE Arca Equities, Inc. Schedule of Fees and Charges for Exchange Services.

[22] *See* Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR–NYSEAmex–2011–37).

reasonable since those Members do not have a large cumulative effect on the Exchange's message traffic and thus the Exchange's operational, surveillance, and administrative costs are lower for those Members than those Members with higher message traffic.

Thus, the Exchange believes that the MEIP's fees among its Members are uniform except with respect to reasonable and well-established distinctions with respect to market making and Members with lower message traffic (those that send less than 1 million messages/day). These distinctions or analogous versions of them have been previously filed with the Commission.[23]

The Exchange also notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to encourage market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members, except with respect to Market Makers for the reasons cited above. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[23] *Id. See also supra* notes 13–15, 18–21 (NYSE Amex assesses a messages fee if the certain of its members exceed one billion quotes and/or orders (''messages''); Nasdaq assesses its excessive message fee if a member sends an average of more than 10,000 DOTI Orders per day during the month, and the ratio between total DOTI Orders and DOTI Orders that are fully or partially executed (either at Nasdaq or NYSE) exceeds 300 to 1.)

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act [24] and Rule 19b–4(f)(2) [25] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2012–19 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–EDGA–2012–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2012–19 and should be submitted on or before July 5,2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14343 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 19b–4(f)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67158; File No. SR–EDGX–2012–19]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 2012 the EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

www.directedge.com, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange proposes to amend the percentage associated with the ''added liquidity'' to ''removed liquidity'' ratio in part (ii) of the Investor Tier (Footnote 13) from 70% to 60% and pluralize ''Member.'' Therefore, Footnote 13, will read, ''Members can qualify for an Investor Tier and be provided a rebate of $0.0030 per share if they meet the following criteria: (i) On a daily basis, measured monthly, posts an ADV of at least 8 million shares on EDGX where added flags are defined as B, HA, V, Y, MM, 3, or 4; (ii) have an ''added liquidity'' to ''removed liquidity'' ratio of at least 60% where added flags are defined as B, HA, V, Y, MM, 3, or 4 and removal flags are defined as BB, MT, N, W, PI, or 6; and (iii) have a message-to-trade ratio of less than 6:1.''

Codification of Late Fees

Currently, the Exchange charges additional fees to Members that fail to pay all dues, fees, assessments and charges owed to the Exchange by the prescribed due date. Exchange Rule 15.1(a) states that the Exchange may prescribe such reasonable dues, fees, assessments or other charges as it may, in the Exchange discretion, deem appropriate. In addition, paragraph 13 of the Exchange's User Agreement,[4] which is signed by all Members as part of their membership in the Exchange, also provides that the Member agrees to pay the Exchange a late charge of 1% per month on all past due amounts that are not the subject of a legitimate and bona fide dispute. The Exchange proposes to codify this language in Footnote d on its fee schedule stating that the Exchange will assess a charge of 1% per month on the past due portion of the balance on a Member's account that is past due. This fee will begin to accrue on a daily basis for items not paid within the 30 day payment terms until the item is paid in full. Late fees incurred will be included as line items on subsequent invoices.

The Exchange proposes to implement these amendments to its fee schedule on June 1, 2012.

Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange proposes to amend the percentage associated with the ''added liquidity'' to ''removed liquidity'' ratio in part (ii) of the Investor Tier (Footnote 13) from 70% to 60% because the Exchange believes that a ratio of at least 60% represents a more appropriate criterion for Members to qualify for a rebate of $0.0030 per share associated with the Investor Tier. The Exchange believes the proposed ratio incentivizes Members to direct a high quality order flow to the Exchange because the Exchange believes that such high quality liquidity provisions will encourage price discovery and market transparency and improve investor protection by encouraging growth in liquidity. In addition, the Exchange also believes that the proposal is non-discriminatory because it applies uniformly to all Members.

In order to provide additional transparency to Members, the Exchange proposes to codify its existing policy regarding late fees in Footnote d of the fee schedule. The Exchange believes that by including proposed Footnote d it will help to promote market transparency and improve investor protection by displaying the Exchange's policy regarding late fees to Members on its fee schedule along with the Exchange's other rebates and charges. The Exchange also notes that it is equitable and reasonable to charge a Member a late fee on past due balances because it offsets administrative and collection costs associated with past due accounts and incentivizes Members to pay on time in accordance with the terms of the Member's User Agreement. In addition, a late fee of 1% is reasonable because it is in line with the late fees assessed by other exchanges.[7] The Exchange believes that the proposal is non-discriminatory because it applies to all Members.

The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[4] *See* the User Agreement posted to the Exchange's Web site at: *http://www.directedge.com/Portals/0/docs/MembDocs/EDGX%20Complete%20Exch%20Appl%201%20%28V%202.0%29.pdf.*

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] *See also,* the late fees listed on the Chicago Board Options Exchange's fee schedule at: *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf;* and NASDAQ Rule 7032 regarding late fees.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(f)(2).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2012–19 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–EDGX–2012–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2012–19 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14341 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67154; File No. SR–NYSE–2012–10]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change Amending NYSE Rule 107B To Add a Class of Supplemental Liquidity Providers That Are Registered as Market Makers at the Exchange

June 7, 2012.

I. Introduction

On April 17, 2012, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 107B to add a class of Supplemental Liquidity Providers (''SLP'') that are registered as market makers at the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 23, 2012.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NYSE Rule 107B was adopted as a pilot program in October 2008 and established a new class of off-floor market participants referred to as Supplemental Liquidity Providers or ''SLPs.''[4] Approved Exchange member organizations are eligible to be an SLP. SLPs supplement the liquidity provided by Designated Market Makers (''DMM''). SLPs have monthly quoting requirements that may qualify them to receive SLP rebates, which are larger than the general rebate available to non-SLP market participants.[5]

To qualify as an SLP under NYSE Rule 107B(c), a member organization is subject to a number of conditions, including adequate trading infrastructure to support SLP trading activity, quoting and volume performance that demonstrates an ability to meet the 10% ADV requirement, and use of specified SLP mnemonics. In addition, the business unit of the member organization acting as an SLP must enter proprietary orders only and have adequate information barriers between the SLP unit and any of the member organization's customer, research, and investment-banking business. Pursuant to NYSE Rule 107B(h)(2)(A), a DMM may also be an SLP, but not in the same securities in which it is registered as a DMM.

Proposed SLP Market Makers

The Exchange proposes to amend NYSE Rule 107B to add a category of SLPs that would be registered as market makers at the Exchange. As proposed, the term ''SLP'' would refer to member organizations that provide supplemental liquidity and there would be two classes of SLP. The existing SLP member organizations and associated requirements would continue unchanged and would be referred to as ''SLP–Prop.''

The proposed new class of SLP would be referred to as ''SLMM''. SLMMs would have differing qualification requirements and increased regulatory obligations as compared to SLP–Props, but would otherwise be subject to the existing SLP program.

Under the proposal, an SLP can choose to be either an SLP–Prop or an SLMM. The proposed SLMMs would have different qualification requirements, specified regulatory obligations, expanded entry of order requirements, and a security-by-security withdrawal ability. SLP–Props and SLMMs would be subject to the same application and overall program withdrawal process, ADV and quoting requirements, manner by which SLP securities are assigned, and non-regulatory penalties.

To be approved as an SLMM, an SLMM must meet specified regulatory obligations, which are set forth in proposed NYSE Rule 107B(d). Failure to comply with these regulatory obligations could result in disciplinary

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 66821 (April 17, 2012), 77 FR 24239 (''Notice'').

[4] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108). The pilot is currently scheduled to end on July 31, 2012.

[5] NYSE Rule 107B(a) requires that an SLP maintain a bid and/or an offer at the national best bid (''NBB'') or national best offer (''NBO'') averaging at least 10% of the trading day for each assigned security. In addition, an SLP must provide an average daily volume (''ADV'') of more than 10 million shares for all assigned SLP securities on a monthly basis. Meeting this volume requirement will enable an SLP to receive the basic SLP rebate (currently $0.0020 per executed share) on security-by-security basis and to maintain their SLP status.

action. First, pursuant to proposed NYSE Rule 107B(d)(1), the SLMM must maintain a continuous two-sided quotation in those securities in which the SLMM is registered to trade as an SLP (''Two-Sided Obligation''). As proposed, the Two-Sided Obligation applicable to SLMMs would be virtually identical to the market-maker two-sided obligations adopted by the equities markets in 2010.[6] Second, pursuant to proposed NYSE Rule 107B(d)(2), the SLMM would be required to maintain net capital in accordance with the provisions of Rule 15c3–1 under the Act, which specifies the capital requirements for market makers.[7] Finally, pursuant to proposed NYSE Rule 107B(d)(3), the SLMM would be required to maintain unique mnemonics specifically dedicated to SLMM activity. Use of these unique mnemonics will enable SLMMs to meet their requirement under proposed NYSE Rule 107B(d)(1)(A) to identify their market-making activity to the Exchange. As proposed, such mnemonics may not be used for trading in securities other than SLP Securities assigned to the SLMM.

Pursuant to NYSE Rule 107B(c)(6), SLPs must currently maintain adequate information barriers between the SLP unit and the member organization's customer, research and investment-banking business. This requirement ensures that the orders submitted by SLPs are proprietary only, and are not related to any customer-facing business, including potentially market-making businesses. The Exchange proposes to maintain this requirement for SLP–Props.

Proposed NYSE Rule 107B(j) would modify the entry of order requirements. SLP–Prop would continue to be required to enter proprietary orders only. As proposed, SLMMs would similarly be required to enter orders for their own account, however, they could be entered in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person. SLMM could submit SLMM quotes to the Exchange on behalf of customers, or other unaffiliated or affiliated persons.

The Exchange proposes to add an additional ability for SLMMs to voluntarily withdraw from registration as a market maker in a particular security. Under proposed NYSE Rule 107B(f)(2), an SLMM may withdraw its registration in a security by giving written notice to the SLP Liaison Committee and FINRA. As proposed, the Exchange may require a certain minimum notice period for withdrawal, and may place such other conditions on withdrawal and re-registration following withdrawal, as it deems appropriate in the interests of maintaining fair and orderly markets. An SLMM that fails to give advanced written notice of termination to the Exchange may be subject to formal disciplinary action.

Under proposed NYSE Rule 107B(i), an SLP–Prop may not also act as an SLMM in the same securities in which it is registered as an SLP–Prop and vice versa. If a member organization has more than one business unit, and the SLP–Prop business unit is walled off from the SLMM business unit, the member organization may engage in both an SLP–Prop and SLMM business from those different business units. Provided there is no coordinated trading between the SLP–Prop and SLMM business units, they may be assigned the same securities.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that adding an additional registered market maker program to the Exchange will promote just and equitable principles of trade as it could potentially expand the number of market participants providing liquidity at the Exchange, to the benefit of investors. In particular, the proposal would allow additional market participants, including member organizations that are registered as market makers on other exchanges that engage in a customer-facing business, to participate in the SLP program.

The proposed SLMMs would provide supplemental liquidity in addition to the liquidity provided by DMMs and SLP–Props, and the Exchange would continue to require that a DMM be registered in every security listed on the Exchange. Because the proposed SLMMs would be required to meet the Two-Sided Obligation applicable to all equities market makers, the Commission believes that the proposed rule change would also remove impediments to and perfect the mechanism of a free and open market and a national market system by increasing the number of market participants that are required to maintain a continuous two-sided quotation a specified percentage away from the NBBO in the securities in which they are registered. Moreover, the proposed SLMM would be subject to other currently existing requirements.

The Commission finds that the proposal is not unfairly discriminatory. Registration as an SLP–Prop or SLMM is available to all Exchange member organizations that satisfy the requirements of proposed NYSE Rule 107B(c) or (d). The Commission finds further that the proposal to establish procedures for the registration, withdrawal, and disqualification of SLMM, and the SLMM quoting requirements, are consistent with the requirements of Section 6(b)(5) of the Act. The Exchange's proposed rules provide an objective process by which a member organization could become a SLMM and for appropriate oversight by the Exchange to monitor for continued compliance with the terms of these provisions. The Commission also notes that these provisions are similar to the existing provisions that apply to the current SLP program.

In addition, the Commission believes that the proposed rule change is consistent with the requirements of the Act because the proposed requirements for the SLMMs are based on existing, approved requirements for registered market makers on other exchanges. In addition to the Two-Sided Obligation, the proposed SLMMs would also be required to assist in the maintenance of a fair and orderly market, as reasonably practicable, and maintain net capital

[6] *See* Securities Exchange Act Release No. 63255 (Nov. 5, 2010), 75 FR 69484 (Nov. 12, 2010) (SR–BATS–2010–025; SR–BX–2010–66; SR–CBOE–2010–087; SR–CHX–2010–22; SR–FINRA–2010–049; SR–NASDAQ–2010–115; SR–NSX–2010–12; SR–NYSE–2010–69; SR–NYSEAmex-2010–96; and SR–NYSEArca-2010–83) (order approving enhanced quoting requirements for market makers).

[7] 17 CFR 240.15c3–1. For purposes of that rule, the term ''market maker'' is defined as ''a dealer who, with respect to a particular security, (i) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.'' 17 CFR 240.15c3–1(c)(8).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

consistent with federal requirements for market makers.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSE–2012–10) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14337 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67157; File No. SR–FINRA–2011–057]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendments No. 2 and No. 3 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendments No. 1, No. 2, and No. 3 to Adopt FINRA Rule 5123 (Private Placements of Securities) in the Consolidated FINRA Rulebook

June 7, 2012.

I. Introduction

On October 5, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt FINRA Rule 5123 (''Private Placements of Securities'').[3] The proposed rule change was published for comment in the **Federal Register** on October 24, 2011.[4] The Commission received sixteen (16) comment letters in response to the original proposed rule change (''Original Proposal'').[5] On January 19, 2012, FINRA filed Amendment No. 1 to the proposed rule change and a letter responding to comments.[6] In order to solicit additional input from interested parties on the issues presented in FINRA's proposed rule change, on January 20, 2012, the Commission published notice of Amendment No. 1 for comment and an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act, to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[7] The Commission received eleven (11) comment letters in response to the Notice and Proceedings Order.[8] On March 12, 2012, FINRA filed Amendment No. 2 to the proposed rule change and a letter responding to comments.[9] On March 22, 2012, FINRA filed Amendment No. 3 to the proposed rule change.[10] In Amendment No. 2, as further clarified by Amendment No. 3, FINRA proposed eliminating the Original Proposal's requirement for members to disclose to investors the anticipated use of offering proceeds, and the amount and type of offering expenses and offering compensation. Instead, FINRA proposed to limit members' obligations under proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Prior to filing the rule change with the Commission, in January 2011, FINRA published Regulatory Notice 11–04 requesting comment on proposed amendments to Rule 5122 (''Private Placement of Securities Issued by Members''). FINRA Rule 5122 established disclosure and filing requirements for members and associated persons offering or selling any security issued by a member or a member's control entity in a non-public offering of securities conducted in reliance on certain available exemptions from registration under the Securities Act of 1933 (''Securities Act''). As originally proposed, the proposed rule change would have amended Rule 5122 to include similar disclosure and filing requirements for members and associated persons offering or selling any security issued by a non-member in a non-public offering of securities conducted in reliance on certain available exemptions from registration under the Securities Act. A copy of the regulatory notice is available on FINRA's Web site at *http://www.finra.org.* The comment period expired on March 14, 2011. FINRA received 35 comments in response to the regulatory notice.

[4] *See* Exchange Act Release No. 65585 (Oct. 18, 2011), 76 FR 65758 (Oct. 24, 2011) (Notice of Filing of Proposed Rule Change to Adopt New FINRA Rule 5123 (Private Placements of Securities)) (''Notice of Filing''). The comment period closed on November 18, 2011.

[5] *See* Letters from Ryan Adams, Christine Lazaro, Esq., and Lisa Catalano, Esq., St. John's School of Law Securities Arbitration Clinic, dated November 10, 2011 (''St. John's Letter''); Ryan K. Bakhtiari, President, Public Investors Arbitration Bar Association, dated November 14, 2011 (''PIABA Letter''); David T. Bellaire, Esq., Financial Services Institute, Inc., dated November 14, 2011 (''FSI Letter''); Robert E. Buckholz, Chair, Committee on Securities Regulation, New York City Bar Association, dated November 9, 2011 (''NYC Bar-November Letter''); Richard B. Chess, President, Real Estate Investment Securities Association, dated November 14, 2011 (''REISA–November Letter''); Alicia M. Cooney, Managing Director, Monument Group, dated January 12, 2012 (''Monument Group-January Letter''); Martel Day, Chairman, Investment Program Association, dated November 14, 2011 (''IPA Letter''); Jack E. Herstein, President, North American Securities Administrators Association, Inc., dated November 17, 2011 (''NASAA–November Letter''); Joan Hinchman, Executive Director, National Society of Compliance Professionals, dated November 14, 2011 (''NSCP Letter''); William A. Jacobson, Associate Clinical Professor, and Carolyn L. Nguyen, Cornell Law School, dated November 14, 2011 (''Cornell-November Letter''); Stuart J. Kaswell, Executive Vice President, Managed Funds Association, dated November 14, 2011 (''MFA Letter''); William H. Navin, Senior Vice President, The Options Clearing Corporation, dated November 9, 2011 (''OCC Letter''); Jeffrey W. Rubin, Chair, Federal Regulation of Securities Committee, American Bar Association, dated November 14, 2011 (''ABA Letter''); Sullivan & Cromwell LLP, dated November 10, 2011 (''S&C–November Letter''); Osamu Watanabe, Deputy General Counsel, Moelis & Co., dated November 28, 2011 (''Moelis Letter''); and Donald S. Weiss, K&L Gates LLP, dated November 14, 2011 (''K&L Gates Letter''). Comment letters are available at *www.sec.gov.*

[6] *See* Letter from Stan Macel, Assistant General Counsel, FINRA, dated January 19, 2012 (''Response Letter''). The text of proposed Amendment No. 1 and FINRA's Response Letter are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room. FINRA's Response Letter is also available on the Commission's Web site at *www.sec.gov.*

[7] *See* Exchange Act Release No. 66203 (Jan. 20, 2012); 77 FR 4065 (Jan. 26, 2012) (Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as modified by Partial Amendment No. 1, to Adopt FINRA Rule 5123 (Private Placements of Securities) in the Consolidated FINRA Rulebook)) (''Notice and Proceedings Order''). The comment period closed on February 27, 2012 and FINRA's rebuttal period closed on March 12, 2012.

[8] *See* Letters from Wesley A. Brown, Managing Director and Chief Compliance Officer, St. Charles Capital, LLC, dated February 26, 2012 (''St. Charles Letter''); Robert E. Buckholtz, Chair, Committee on Securities Regulation, New York City Bar Association, dated February 24, 2012 (''NYC Bar-February Letter''); Alicia M. Cooney, Managing Director, Monument Group, Inc., dated February 27, 2012 (''Monument Group-February Letter''); Jack E. Herstein, NASAA President and Assistant Director, Nebraska Department of Banking and Finance Bureau of Securities, dated April 23, 2012 (''NASAA–April Letter''); William A. Jacobson, Associate Clinical Professor of Law, Cornell Law School, and Director, Cornell Securities Law Clinic, dated February 27, 2012 (''Cornell-February Letter''); Stuart J. Kaswell, Executive Vice President, Managed Funds Association, dated February 27, 2012 (''MFA–February Letter''); Douglas Martin, dated February 1, 2012 (''Martin Letter''); National Investment Banking Association, dated February 27, 2012 (''NIBA Letter''); Daniel Oschin, President, Real Estate Investment Securities Association, dated February 27, 2012 (''REISA–February Letter''); G. Philip Rutledge, attorney, dated April 27, 2012 (''Rutledge Letter''); and Sullivan & Cromwell LLP, dated February 23, 2012; (''S&C–February Letter'').

[9] *See* Letter from Stan Macel, FINRA, dated March 12, 2012 (''Rebuttal Letter''). *On May 18, 2012, FINRA filed a supplementary response to additional comments* (''Supplementary Rebuttal Letter''). *See Letter from Stan Macel, FINRA, dated May 18, 2012.* The text of proposed Amendment No. 2, the Rebuttal Letter, and the Supplementary Rebuttal Letter are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room. FINRA's Rebuttal Letter and Supplementary Rebuttal Letter are also available on the Commission's Web site at *www.sec.gov.*

[10] In Amendment No. 3, FINRA made clear that proposed Rule 5123 would require members to file with FINRA within 15 calendar days of the date of first sale the original offering documents as well as any ''materially amended versions'' of offering documents used in connection with a sale. The text of proposed Amendment No. 3 is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room.

Rule 5123 to filing any existing offering document (including any material amendment thereto) used in connection with a sale of the subject securities within 15 calendar days of the date of first sale, or to identify that no such document was used. The Commission is publishing this notice and order (''Notice and Order'') to solicit comment on Amendments No. 2 and No. 3 and to approve the proposed rule change, as modified by Amendments No. 1, No. 2, and No. 3, on an accelerated basis.

II. Description of Original Proposal, Comments, and Amendment No. 1

A. Description of Original Proposal

The Original Proposal would have required that members and associated persons that offer or sell any applicable private placement (''Covered Offering''), or participate in the preparation of a private placement memorandum (''PPM''), term sheet, or other disclosure document in connection with any Covered Offering, disclose to each investor prior to sale the anticipated use of offering proceeds, and the amount and type of offering expenses and offering compensation. If any issuer's disclosure documents did not contain the requisite information, the Original Proposal would have required the member to create and provide to any potential investor a separate disclosure document containing this information.

The Original Proposal also would have required that each participating member file the PPM, term sheet, or other disclosure document, and any exhibits thereto, with FINRA no later than 15 calendar days after the date of the first sale. In addition, the Original Proposal would have required any material amendments to such disclosure document, or any amendments to any mandated disclosures described in the Original Proposal, to be filed with FINRA no later than 15 calendar days after the date such document was provided to any prospective investor.

B. Comments on the Original Proposal

As stated above, the Commission received sixteen comment letters on the Original Proposal. Some commenters expressed support for the goals of the Original Proposal.[11] Other commenters, including some who supported the proposal, expressed concerns about the Original Proposal.[12]

The commenters' concerns generally fell into broad categories: Several commenters advocated for additional exemptions to the proposed rule (*e.g.,* offerings made by a private fund,[13] secondary market transactions exempt from registration under the Securities Act,[14] and offerings sold to ''knowledgeable employees'' of a private fund or of the investment adviser that sponsors or manages a private fund [15]). At least one commenter viewed the Original Proposal as exceeding the scope of FINRA's regulatory authority.[16] Several commenters expressed concern about the costs and burdens related to the Original Proposal (*e.g.,* increased risk of liability for FINRA members required to create an offering document,[17] additional monetary costs associated with requiring each FINRA selling group member to provide to each prospective investor a copy of the offering document,[18] and the potential negative impact on the availability of capital to certain hedge funds [19]).

In response to commenters, FINRA submitted its Response Letter and filed Amendment No. 1 to the Original Proposal.[20]

C. Description of Amendment No. 1

Amendment No. 1 made the following changes to the Original Proposal:

First, FINRA amended the Original Proposal by clarifying that the term ''private placement'' would have the same meaning as it does in Rule 5122. That is, the term private placement would mean ''a non-public offering of securities conducted in reliance on an available exemption from registration under the Securities Act.''

Second, FINRA amended the Original Proposal by eliminating a member's obligation to create a disclosure document. In particular, FINRA eliminated the proposed requirement to create and provide to any potential investor a separate disclosure document containing the anticipated use of offering proceeds, the amount and type of offering expenses, and the amount and type of compensation provided or to be provided to sponsors, finders, consultants, and members and their associated persons in connection with the offering, if a disclosure document containing this information, drafted by or on behalf of the issuer, did not already exist.

Third, FINRA amended the Original Proposal by revising a member's obligation to make a notice filing with FINRA with respect to a Covered Offering. In particular, a member would still be obligated to file with FINRA any disclosure document used in the Covered Offering containing the requisite information about proceeds, expenses, and compensation; however, if no such disclosure document existed, the member would not be required to generate a notice document containing the requisite information. Instead, the participating member would have to prepare a notice filing identifying the private placement, the participating members, and stating that no disclosure document was used, and file it with FINRA no later than 15 calendar days after the date of first sale.

Amendment No. 1 also affirmed that proposed Rule 5123 would not preclude sales of Covered Offerings in which no disclosure documents were used and would not require the member to make any additional disclosure to investors in such offerings. In addition, Amendment No. 1 clarified that each member participating in an offering (or a member's designee) would be required to file the disclosure document of notice filing with FINRA no later than 15 calendar days after the date of first sale.

Fourth, Amendment No. 1 amended the Original Proposal by clarifying certain proposed exemptions from and adding new proposed exemptions to the Original Proposal.[21] The Amendment

---

[11] The Cornell-November Letter viewed the Original Proposal as an important step in protecting investors by informing them of the risks associated with private placements; the FSI Letter generally supported the Original Proposal because it would provide an enhanced level of disclosure to investors participating in private placements of securities; the NASAA–November Letter generally supported FINRA's efforts to increase the disclosure of information pertinent to the offer and sale of private placements; the PIABA Letter stated its support for the Original Proposal; the St. John's Letter supported the Original Proposal in the interest of investor protection, increased transparency, and awareness.

[12] The NASAA Letter recommended that the Original Proposal require members to provide additional risk disclosures to investors; the Cornell-November Letter urged FINRA to amend the Original Proposal to require a member to disclose any affiliation between the issuer and the member; the PIABA Letter sought clarification that the Original Proposal would not create a safe harbor for broker-dealers; the FSI Letter recommended that FINRA adopt an amendment to allow one member to make the notice filing on behalf of all members of a selling group.

[13] *See, e.g.,* MFA–February Letter.

[14] *See, e.g.,* ABA Letter.

[15] *See, e.g.,* K&L Gates Letter.

[16] *See, e.g.,* ABA Letter.

[17] *See, e.g.,* REISA–February Letter.

[18] *See, e.g.,* NYC Bar November Letter.

[19] *See, e.g.,* NSCP Letter.

[20] FINRA subsequently submitted a second letter (*i.e.,* the Rebuttal Letter, supra note 9) and amended the Original Proposal three times (*i.e.,* Amendments No. 1, No. 2 and No. 3 (discussed in Part III, below)). The changes proposed in Amendment No. 1 (along with the explanations found in the Response Letter, *supra* note 6 and in the Notice and Proceedings Order, *supra* note 7) addressed the concerns commenters raised in response to the Original Proposal. The Commission is therefore not fully discussing the comments to the Original Proposal in this Order.

[21] Amendment No. 1 amended the Original Proposal to exclude offerings pursuant to the following provisions: Securities Act Sections 4(1), 4(3), and 4(4) (which generally exempt secondary

clarified that a member qualifies for an exemption based upon the sales it makes rather than those of all members participating in the offering. Thus, the actions of one member would not affect the availability of an exemption for another member.

Fifth, Amendment No. 1 made two additional clarifications. Amendment No. 1 clarified that the term ''affiliate'' for purposes of Rule 5123 would have the same meaning as in FINRA Rule 5121. Specifically, the term ''affiliate'' would mean ''an entity that controls, is controlled by or is under common control with a member.'' Finally, Amendment No.1 clarified that a member would only be required to deliver a disclosure document to persons to whom it sells shares in the private placement.

III. Description of Comments on Amendment No. 1, FINRA's Rebuttal, and Amendments No. 2 and No. 3

A. Comments on Amendment No. 1

In its Notice and Proceedings Order, the Commission asked that commenters address, among other things, the changes that FINRA proposed in Amendment No. 1, the comments received on the Notice of Filing, and FINRA's Response Letter. In addition, the Commission expressly requested comment on the following aspects of the proposed rule change: (1) The categories of offerings that would be subject to the proposed rule change under the proposed definition of ''private placement;'' (2) the potential impact on investors purchasing private placement securities through a broker-dealer subject to the proposed rule change; (3) the potential impact on members of having to comply with the proposed rule change; and (4) the potential impact of competition and capital formation, including: (a) Whether members would continue to participate in private placements subject to the proposed rule change; (b) whether the proposed rule change would encourage issuers to utilize unregistered firms to effect their covered offerings; and (c) whether the proposed rule change would affect access to capital, the costs of capital raising, or the cost of capital for issuers.[22]

The Commission received eleven (11) comment letters in response to the Notice and Proceedings Order,[23] including four (4) letters supporting the proposed rule[24] and seven (7) letters requesting requested significant changes.[25]

1. Favorable Comments

The S&C-February Letter commended FINRA for the amendment and stated its belief that members would be able to comply with the narrowly tailored disclosure requirements. The NYC Bar-February Letter stated that FINRA substantially responded to its comments and it therefore supported the rule. The Cornell-February Letter stated that it supported the proposed rule as amended and that the costs of compliance would be minimal. The Cornell-February Letter and the NYC Bar-February Letter stated that the proposed rule change would have a beneficial impact on investors and investor protection. Although the NASAA-April Letter stated that NASAA continued to support the rule, NASAA expressed opposition to the amendment, saying that the amendment weakened the protection of investors as compared to the Original Proposal.[26]

2. General Compliance and Other Concerns

The Rutledge Letter recommended that FINRA adopt a uniform template for its notice filing. Specifically, the Rutledge Letter recommended that the proposed rule change specify that a member would be required to file an issuer's Form D to satisfy its filing obligation.[27] FINRA did not adopt this approach, stating that the information contained in an issuer's Form D does not fully address the informational needs of FINRA with respect to oversight of its members' activities regarding private placements, and thus is not a viable alternative to the proposed rule change.

The Martin Letter stated that proposed Rule 5123 should clarify how a member would comply if the member does not sign a selling agreement until more than 15 days have passed after the first sale. FINRA noted in its Rebuttal Letter that the proposed filing requirement referred to the first sale by the member making the filing (or on whose behalf a designated member is filing), rather than the first sale by another member.

The NIBA Letter and REISA—February Letter suggested that members be provided access to summary information collected by FINRA regarding private placements as a result of the proposed rule change. FINRA responded in its Response Letter and repeated in its Rebuttal Letter that, by the express terms of the proposed rule change, this information would be collected solely for regulatory purposes and FINRA intends to provide confidential treatment to all documents and information filed pursuant to it. In fact, the proposed rule would contain a provision addressing confidential treatment of any information filed with FINRA pursuant to the proposed rule. Specifically, pursuant to proposed paragraph 5123(c), FINRA would accord confidential treatment to all documents and information filed pursuant to the Rule, and would use such documents and information solely for the purpose of determining compliance with FINRA rules or other applicable regulatory purposes.

These two commenters also sought clarification about the liability of members for violations of the proposed rule.[28] FINRA stated in its Response Letter that a wide range of regulatory responses is available for violations of the proposed rule, as there is for violations of any FINRA rule. FINRA stated that its regulatory response would depend on the facts and circumstances of the violation in question. FINRA also noted that any sanction it imposes in any matter is also subject to oversight and review by the Commission.[29]

3. Exemptions

Several commenters requested additional exemptions from coverage under Rule 5123. The S&C—February Letter, for example, requested an exemption for all accredited investors. FINRA stated that it does not believe that the exemption should extend to offers to accredited investors under Rule 501(a)(4), (5), or (6) of Regulation D. In particular, FINRA stated that it believes

transactions); Securities Act Sections 3(a)(2) (offerings by banks), 3(a)(9) (exchange transactions with an existing holder, where no one is paid to solicit the exchange), 3(a)(10) (securities subject to a fairness hearing), 3(a)(12) (securities issued by a bank or bank holding company pursuant to reorganization or similar transactions); and Section 1145 of the Bankruptcy Code (securities issued in a court-approved reorganization plan that are not otherwise entitled to the exemption from registration afforded by Securities Act Section 3(a)(10)).

[22] *Supra* note 7.

[23] *Supra* note 8.

[24] S&C—February Letter; NYC Bar—February Letter; Cornell—February Letter; NASAA—April Letter.

[25] St. Charles Letter; Monument Group—February Letter; MFA—February Letter; Martin Letter; NIBA Letter; REISA—February Letter.

[26] NASAA—April Letter.

[27] ''Form D'' is a notice filing an issuer makes to the Commission and any requisite states after the issuer first sells its securities in reliance on an exemption under Regulation D or Section 4(5) of the Securities Act. Form D generally includes the names and addresses of the company's executive officers and stock promoters, but contains little other information about the company.

[28] NIBA Letter; REISA-February Letter.

[29] *See, e.g.,* FINRA Rule 9370 (Application to SEC for Review).

that the criteria used to measure whether a person meets the accredited investor standard do not necessary reflect a sufficiently high level of sophistication to justify exemption from the proposed rule.

The NIBA Letter and REISA-February Letter expressed concern about the exemption for institutional accounts as amended by Amendment No. 1. Specifically, Amendment No. 1 proposed exempting from coverage, offerings sold by a member or person associated with the member solely to institutional accounts as defined by new FINRA Rule 4512(c). Those commenters stated that the proposed exemption is confusing because the definition used in FINRA Rule 4512(c)(1)(A) uses a different set of monetary thresholds than those used for the definitions of Qualified Institutional Buyers (''QIBs'') in Section 144A of the Securities Act and Qualified Purchasers (''QPs'') in Section 2(a)(51)(A) of the Investment Company Act. FINRA noted in its Rebuttal Letter that proposed Rule 5123 would exempt offerings sold to all three of these categories of purchasers—institutional accounts as defined in FINRA Rule 4512(c), QIBs, and QPs. Because the categories provide cumulative relief to members, FINRA stated that it did not believe that offering more exemptions, including an additional, stand-alone exemption with different criteria would be confusing.

The St. Charles Letter requested that FINRA include an exemption for firms engaged solely in advisory services, *e.g.,* firms that assist with the preparation of the PPM. In its Rebuttal Letter, FINRA stated that Amendment No. 1 eliminated from the Original Proposal the application of the proposed rule to firms that assist with the preparation of offering documents.

In addition, the proposed rule would contain a catchall provision that would give FINRA discretion to allow for additional exemptions. Specifically, pursuant to proposed paragraph 5123(d), FINRA would have authority to exempt a member or associated person from the provisions of the proposed Rule upon a showing of good cause.

4. Legislative and Regulatory Concerns

The Rutledge Letter requested that FINRA reevaluate the proposed rule change in light of the enactment of the Jumpstart Our Business Startups Act of 2012 (''JOBS Act''). In particular, the Rutledge Letter suggested that the proposed rule change is inconsistent with the intent of the JOBS Act to reduce regulation applicable to small business capital formation.[30] In the Supplementary Rebuttal Letter, FINRA stated that it believes that the proposed rule change is consistent with the JOBS Act.[31] In particular, FINRA stated that it believes that requiring a member to make a notice filing subsequent to a sale of a private placement would not unnecessarily burden members or capital formation in light of the intended regulatory benefits to investors of the resulting enhanced oversight. FINRA suggested that investor confidence would be fostered by the enhanced oversight resulting from the proposed rule change and that it would thereby facilitate capital formation. FINRA further reiterated its view that that the proposed rule change, as amended, would enhance its regulatory oversight of broker-dealers that sell securities in the private placement market.[32]

The Rutledge Letter also stated that the proposed rule is unnecessary and suggested FINRA instead enforce existing rules and increase sanctions for private placement fraud. FINRA stated that the proposed rule change, as amended, would enhance its regulatory oversight of broker-dealers that sell securities in the private placement market by providing FINRA with more timely and complete information about its members' private placement activities.

The Rutledge Letter suggested an alternative approach to improve investor protection in the private placement market. Specifically, the Rutledge Letter proposed that the SEC and FINRA adopt additional regulations governing finders and business brokers with respect to, among other things, licensing, qualifications, recordkeeping, and continuing education. FINRA stated that it will examine the need for additional rules governing finders and business brokers and work with the Commission, as appropriate. FINRA, however, stated that it views additional regulation of finders and business brokers as a complement to the proposed rule and the enhanced information it would make available to FINRA.

The MFA-February Letter opposed the amended rule stating that it believed the rule would be inconsistent with the federal securities laws. Although the letter acknowledged that FINRA's proposed rule would no longer require the creation and delivery of a disclosure document in connection with sales in which no offering document was used, it stated that the proposed rule's ongoing requirement to provide any existing disclosure document to a prospective investor would substitute FINRA's judgment for Congress's, which has enacted and repeatedly reaffirmed a statutory framework for private funds that leave matters of disclosure to issuers. FINRA responded to these concerns by filing Amendments No. 2 and No. 3, which eliminated any disclosure requirement and left only a filing requirement or a requirement to indicate to FINRA that no offering documents were used.

The Rutledge Letter also asserted that the proposed rule would disrupt the established federal securities regulatory scheme because it would expand FINRA's jurisdiction to cover issuers of private placements. Similarly, the Rutledge Letter claimed that the proposed rule change would subject private placements subject to the proposed rule change to an implicit approval process. The Rutledge Letter stated that inserting an additional layer of regulatory review would impede capital formation. FINRA responded that it believes the proposed rule change is consistent with its jurisdiction over members and persons associated with members. Moreover, FINRA represented in the Original Proposal and in the Supplementary Rebuttal Letter that the proposed notice filing requirement does not establish any review and approval process by FINRA for private placements.[33]

The NIBA Letter stated that the additional burden that would be imposed on FINRA members by the proposed rule would cause issuers to rely on unregistered entities or themselves to conduct the types of offerings covered by the rule. Thus, NIBA argued that FINRA can only partially address the problems in this area unless the Commission also adopts rules applicable to issuers and unregulated persons, who provide essentially the same services as FINRA members.

In the Rebuttal Letter, FINRA stated that it generally supports broader oversight of private placements and stated that improvement in the protection of broker-dealer customers should not depend upon whether the Commission adopts rules for issuers and entities not subject to FINRA's oversight. Moreover, by amending the filing in Amendments No. 2 and No. 3 to require only either a notice filing of the offering documents that were used or a statement that no such documents

[30] *Supra* note 8.

[31] *Supra* note 9.

[32] *Supra* note 9.

[33] *See* Original Proposal, *supra,* note 4 and Supplementary Rebuttal Letter, *supra,* note 9.

were used, as FINRA stated in the Original Proposal and in the Supplementary Rebuttal Letter, there should be no implication that the FINRA staff would comment on a filing; that a filing need occur prior to making an offering; or that members should expect FINRA staff input before proceeding with an offering.

5. Costs and Burdens

The Cornell-February Letter and NYC Bar-February Letter both stated that the proposed rule change would not impose unnecessary burdens on capital formation or have unequal competitive impact. Other commenters, however, raised concerns regarding burdens on capital formation and effect on competition. For example, the REISA–February Letter and the NIBA Letter stated that the proposed rule would unduly burden independent broker-dealers participating in offerings of $50 million or less. The NIBA Letter asserted that the amended proposed rule would adversely affect small firms, small issuers, and small businesses more directly than large and medium sized firms, because those larger firms do not participate in offerings of under $50 million in retail private placements for small or newer issuers. The Monument Group-February Letter opposed the amended rule stating that it believed it would impede capital formation by placing ''anticompetitive'' burdens on small private placement agents. The MFA–February Letter opposed the amended rule stating, among other things, that it believed the rule would be burdensome and costly, would impede capital formation, and would reduce efficiency.

In its Rebuttal Letter, FINRA stated that it has responded to these concerns by filing Amendment No. 2 which amended the proposed rule to minimize the potential burden: by (1) Eliminating any disclosure requirement; and (2) narrowly tailoring the remaining notice filing requirement (See Section III.B. below). FINRA asserted in its Response Letter and Rebuttal Letter that a requirement to make a notice filing after the offering has commenced and sales have occurred would not impose an unnecessary burden on members or capital formation and would be appropriate in light of the intended regulatory benefits for investors that would flow from enhanced oversight of, among other things, members' compliance obligations, such as their suitability obligations.[34]

FINRA further stated that it believes the filing requirement of proposed Rule 5123 would provide FINRA with timely and detailed information about the private placement activities of its member firms that would enhance its oversight functions. Specifically, FINRA stated that it believes that information obtained through compliance with the proposed rule would assist its efforts to identify problematic terms and conditions in private placements, thereby helping to detect and prevent fraud in connection with private placements.

In sum, FINRA stated that it does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. And FINRA stated that it believes that the ''relatively modest burden'' of the proposed rule change is both necessary and appropriate in helping to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Description of Amendments No. 2 and No. 3

In response to comments, FINRA filed two subsequent Amendments to the proposed rule, discussed below.

In Amendment No. 2, FINRA eliminated the requirement in proposed Rule 5123 that firms provide specified disclosures to investors. As a result, proposed Rule 5123(a) would contain only a filing requirement. Specifically, paragraph (a) would require each member that sells a security in a Covered Offering to: (i) Submit to FINRA, or have submitted on its behalf by a designated member, a copy of any PPM, term sheet, or other offering document used in connection with such sale within 15 calendar days of the date of first sale, as well as any material amendments to a previously-filed document within 15 calendar days of the date such document is provided to any investor; or (ii) indicate to FINRA that no such offering documents were used.

In Amendment No. 2, FINRA, responding to comments on the exemption for employees and affiliates, also proposed adding a cross-reference to the definition of ''affiliate'' in proposed Rule 5121(b)(1)(G). And FINRA proposed deleting the supplementary material that was proposed in Amendment No. 1.[35]

In Amendment No. 3, FINRA proposed a further clarifying technical amendment to paragraph (a) of proposed Rule 5123. Specifically, FINRA proposed to clarify that a FINRA member must file with FINRA not only the original offering documents but also any ''materially amended versions'' of offering documents used in connection with a sale within 15 calendar days of the date of first sale.

As noted above, FINRA stated its belief that these changes to the proposed rule would address concerns raised by the industry in the comment process, would provide important investor protections in connection with private placements of securities, and are in the public interest.[36] FINRA stated that it generally supports broader oversight of private placements and stated that improvement in the protection of broker-dealer customers should not depend upon whether the Commission, itself, adopts rules for issuers and entities not subject to FINRA's oversight. FINRA further stated that it believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[37] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

IV. General Commission Findings

After carefully reviewing the proposed rule change, as amended, the comments received, and FINRA's response to comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. In particular, the

[34] FINRA noted that members have an obligation under NASD Rule 2310 to conduct a robust and thorough suitability analysis before recommending securities in a private placement. FINRA stated that this analysis requires a reasonable investigation into the offering and understanding of its features, including fees and expenses and use of proceeds. Specifically, FINRA stated that *Regulatory Notice* 10–22, dated April 2010, provides that a member's reasonable investigation must be tailored to each Regulation D offering in a manner that best ensures that it meets its regulatory responsibilities. The Regulatory Notice sets out lists of best practices in investigations focusing on the issuer and its management, the issuer's business prospects and the issuer's assets.

[35] The Proposed Supplementary Material .01 contained a definition of ''affiliate'' that would have noted that the term had the same meaning as in FINRA Rule 5121. This concept was moved to the body of the rule, which now incorporates the definition affiliates from Rule 5121 by reference. Proposed Supplementary Material .02 expanded on the compliance obligations for the disclosure requirement but is no longer necessary because the disclosure obligation that was contained in Rule 5123 was deleted.

[36] *See* Rebuttal Letter.

[37] 15 U.S.C. 78*o*–3(b)(6).

Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[38] which, among other things, requires that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In approving the proposed rule change, the Commission has also considered the rule change's impact on efficiency, competition, and capital formation.[39]

As discussed above, the Commission believes that FINRA has addressed capital formation, competition, and efficiency concerns. In Amendments No. 2 and No. 3, FINRA minimized any potential inefficiency to, or burden on, members by: (1) Eliminating any disclosure requirements; and (2) narrowly tailoring the rule to require either a notice filing of the offering documents that were used within 15 calendar days of the date of first sale or provide a statement that no such documents were used. Furthermore, in response to comments, FINRA created additional exemptions to coverage under Rule 5123. In addition, FINRA noted in its Rebuttal Letter and its Supplementary Rebuttal Letter that it believes that a requirement to make a notice filing after the offering has commenced and sales have occurred would not impose any unnecessary burdens on capital formation. FINRA stated that it would use the information it receives pursuant to the proposed new rule, to further its detection and prevention of fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, all in the interest of enhancing the protection of investors. The Commission believes that FINRA narrowly tailored a broker-dealer's obligations under Rule 5123, while enhancing its ability to carry out its statutory obligations to oversee member firms. The Commission points to the discussion above which highlights the many revisions FINRA made to the proposal to address comments and concerns raised through three separate opportunities for comment.

V. Accelerated Approval

The Commission finds goods cause, pursuant to Section 19(b)(2) of the Exchange Act,[40] for approving the proposed rule change, as modified by Amendments No. 1, No. 2, and No. 3, and prior to the 30th day after publication of notice of the filing of Amendments No. 2 and No. 3 in the **Federal Register.** The proposed rule change was informed by FINRA's consideration of, and the incorporation of many suggestions made in comments on a 2011 proposal to members to expand Rule 5122,[41] the Notice of Filing,[42] and the Notice and Proceedings Order.[43] Amendments No. 1, No. 2, and No. 3 reflect FINRA's efforts to further address commenter concerns and minimize burdens resulting from the proposed rule's requirements.

Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendments No. 1, No. 2, and No. 3, on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rules change as amended by Amendments No. 2 and No. 3 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2011–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2011–057 and should be submitted on or before July 5, 2012.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[44] that the proposed rule change (SR–FINRA–2011–057), as amended by Amendments No. 1, No. 2, and No. 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14340 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67156; File No. SR–ICC–2012–09]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Schedule 502 of the ICE Clear Credit LLC Rules To Amend the Reference Entity Name for Three Credit Default Swap Contracts and the Reference Obligation International Securities Identification Number Associated With One Credit Default Swap Contract

June 7, 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 May 19, 2012, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposal pursuant to

[38] 15 U.S.C. 78*o*–3(b)(6).

[39] 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78s(b)(2).

[41] *Supra* note 3.

[42] *Supra* note 4.

[43] *Supra* note 7.

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(3)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of proposed rule change is to amend Schedule 502 of the ICC Rules in order to reflect the correct credit default swap (''CDS'') reference entity name for three single name CDS contracts (Exelon Corporation, Beam Inc., and XLIT Ltd.) and the Contract Reference Obligation International Securities Identification Number (''Contract Reference Obligation ISIN'') for one single name CDS contract (Exelon Corporation) that ICC currently clears. Amended Schedule 502 would also reflect the industry standard Contract Reference Obligation ISIN of one CDS contract and reference entity names of three CDS contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to correct Schedule 502 of the ICC Rules, which lists all the Contract Reference Obligation ISINs and entity names of all single name CDS contracts that ICC clears. This amendment would revise Schedule 502 to update the Contract Reference Obligation ISIN of one CDS contract and the reference entity names of three CDS contracts that ICC currently clears. The update does not require any changes to the body of the ICC Rules. In addition, the update does not require any changes to the ICC risk management framework.

Schedule 502 of the ICC Rules is being updated to reflect changes that are already in place operationally. Namely, on May 7, 2012, Exelon Corporation became clearing eligible at ICC with a new Contract Reference Obligation ISIN and new reference entity name. On May 8, 2012, ICC converted all Constellation Energy Group, Inc. trades and positions to those of Exelon Corporation. On January 16, 2012, Beam, Inc. became clearing eligible at ICC and on February 1, 2012, ICC converted all Fortune Brands, Inc. positions to Beam, Inc. positions. On April 2, 2012, XLIT Ltd. became clearing eligible at ICC and on April 17, 2012, ICC converted all XL Ltd. trades and positions to XLIT Ltd. positions. The corresponding updates to Schedule 502 accurately represent the current operations of ICC and correctly reflect ICC's cleared activity with respect to the CDS contracts at issue.

Currently, Schedule 502 does not reflect the industry's changes to the standard Contract Reference Obligation ISIN for Exelon Corporation or the entity names for Exelon Corporation, Beam Inc., and XLIT Ltd. Despite the reference entity names and Contract Reference Obligation ISIN in current Schedule 502, ICC has been clearing CDS contracts using the new industry standard Contract Reference Obligation ISIN and reference entity names as of the above dates. Current Schedule 502 does not accurately represent the operations of ICC. The underlying contracts have not changed and, notwithstanding the standard Contract Reference Obligation ISIN change and name changes of the reference entity, ICC continues to clear the same contract today that it cleared prior to the standard Contract Reference Obligation ISIN change and reference entity name changes.

Section 17A(b)(3)(F)[6] of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions. ICC believes that the proposed rule update is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular to Section 17A(b)(3)(F), because the update will facilitate the prompt and accurate settlement of securities transactions and assure the safeguarding of securities and funds associated with securities transactions which are in the custody or control of ICC or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[7] of the Act and Rule 19b–4(f)(3)[8] thereunder. 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 Number SR–ICC–2012–09 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–ICC–2012–09. 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

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] The Commission has modified the test of the summaries prepared by ICC.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(3).

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 Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICC and on ICC's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_032712.pdf.*

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–ICC–2012–09 and should be submitted on or before July 5,2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14339 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0029]

Modifications to the Disability Determination Procedures; Extension of Testing of Some Disability Redesign Features

AGENCY: Social Security Administration.

ACTION: Notice of the Extension of Tests Involving Modifications to the Disability Determination Procedures.

SUMMARY: We are announcing the extension of tests involving modifications to disability determination procedures authorized by 20 CFR 404.906 and 416.1406. These rules authorize us to test several modifications to the disability determination procedures for adjudicating claims for disability insurance benefits under title II of the Social Security Act (Act) and for supplemental security income payments based on disability under title XVI of the Act.

DATES: We are extending our selection of cases to be included in these tests from September 28, 2012 until no later than September 27, 2013. If we decide to continue selection of cases for these tests beyond this date, we will publish another notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: David Vincent, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 597–0549, 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: Our current rules authorize us to test, individually or in any combination, certain modifications to the disability determination procedures. 20 CFR 404.906 and 416.1406. We have conducted several tests under the authority of these rules. In the ''single decisionmaker'' test, a disability examiner may make the initial disability determination in most cases without obtaining the signature of a medical or psychological consultant. We also have conducted a separate test, which we call the ''prototype,'' in 10 States. 64 FR 47218. Currently, the prototype combines the single decisionmaker approach described above with the elimination of the reconsideration level of our administrative review process.

We have extended the time period for selecting claims for these tests several times. Most recently, on September 24, 2009, we extended the time period until September 28, 2012. 74 FR 48797. We have decided to extend case selection for the prototype and the single decisionmaker tests until September 27, 2013. If we decide to end any part of these tests in any of the 10 States in which we are conducting the tests prior to September 27, 2013, we will publish another notice in the **Federal Register**.

Dated: June 6, 2012.

David A. Rust,

Deputy Commissioner for Retirement and Disability Policy.

[FR Doc. 2012–14409 Filed 6–12–12; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Extension of Comment Period—Proposed Low Flow Protection Policy

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: At its regular meeting in Binghamton, New York on June 7, 2012, the Susquehanna River Basin Commission (SRBC) extended the comment deadline for its proposed Low Flow Protection Policy to July 16, 2012. The original comment deadline had been May 16, 2012. On March 15, 2012, SRBC's commissioners approved the release of the proposed Low Flow Protection Policy for public review and comment. The proposed policy was developed over the past year—based on scientific advances in ecosystem flow protection—to improve low flow protection standards associated with approved water withdrawals. SRBC will use the final policy and supporting technical guidance when reviewing withdrawal applications to establish limits and conditions on approvals consistent with SRBC's regulatory standards (18 CFR § 806.23).

DATES: The new deadline for the submission of comments is July 16, 2012.

ADDRESSES: Comments may be mailed to: Mr. John Balay, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391, or electronically submitted through *http://www.srbc.net/pubinfo/businessmeeting.htm.*

FOR FURTHER INFORMATION CONTACT: John W. Balay, Manager, Planning and Operations, telephone: (717) 238–0423, ext. 217; fax: (717) 238–2436. Also, the proposed policy and background information on the policy are available at the Commission's Web site *www.srbc.net.*

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806–808.

Dated: June 7, 2012.

Thomas W. Beauduy,

Deputy Executive Director.

[FR Doc. 2012–14389 Filed 6–12–12; 8:45 am]

BILLING CODE 7040–01–P

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2012–0087]

Advisory Committee for Aviation Consumer Protection

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of first meeting of advisory committee.

SUMMARY: This notice announces the first meeting of the Advisory Committee for Aviation Consumer Protection.

DATES: The first meeting of the advisory committee is scheduled for June 28, 2012, from 9:00 a.m. to 5:00 p.m., Eastern Time.

ADDRESSES: The meeting will be held in the Oklahoma City Room (located on the lobby level of the West Building) at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC. Attendance is open to the public; however, since access to the U.S. DOT headquarters building is controlled for security purposes, any member of the general public who plans to attend this meeting must notify the Department contact noted below at least five (5) calendar days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: To register to attend the meeting, please contact Lynora Simmons Kendale, *Lynora.SimmonsKendale@dot.gov.* For other information please contact Nicholas Lowry, Senior Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, *nick.lowry@dot.gov,* or Blane A. Workie, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9342 (phone), 202–366–7152 (fax), *Blane.Workie@dot.gov.*

SUPPLEMENTARY INFORMATION: Section 411 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95, 126 Stat. 11 (2012)) mandates the establishment of an advisory committee for the purpose of advising the Secretary of Transportation on airline customer service improvements. More specifically, the Act requires the advisory committee to evaluate and provide recommendations to the Secretary for improving existing aviation consumer protection programs and for establishing additional such programs if appropriate. The Act also limits the committee's membership to four members appointed by the Secretary of Transportation—one representative each of airlines, airports, non-profit public interest groups, and state and local governments. Section 411 specifies that the advisory committee shall terminate on September 30, 2015.

On May 24, 2012, the Secretary established the advisory committee and announced those persons appointed as members of the committee. The selected members are as follows: (1) Lisa Madigan who is the attorney general of Illinois, who will also be the committee chairperson; (2) David Berg who is the senior vice president, general counsel and corporate secretary for Airlines for America; (3) Deborah Ale-Flint who is Oakland International Airport's director of aviation; and (4) Charles Leocha who is the founder of the Consumer Travel Alliance. All of the committee members have demonstrated experience in dealing with consumer protection issues.

A charter for the committee, drafted in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, sets forth policies for the operation of the advisory committee. It designates the Department's Assistant General Counsel for Aviation Enforcement and Proceedings as the Committee's Designated Federal Official (DFO) to help run the meetings of the committee. This charter is available on the Department's Web site at *http://www.dot.gov/affairs/2012/dot5912.html.*

As noted above, the first meeting of the committee will take place on June 28, 2012. The agenda topics for the first meeting will include, in a morning session, presentations by staff in the Office of the Aviation Enforcement and Proceedings and its Aviation Consumer Protection Division regarding organization of the offices, existing aviation consumer protection and civil rights statutory and regulatory requirements, and on-going and planned enforcement and rulemaking activities. In an afternoon session, we expect to provide an opportunity for presentations by representatives from organizations representing airlines, travel agents, airport operators, state and local governments, and consumer and other public interest groups. Those organizations wishing to make presentations, which should be limited to no more than 10 minutes, should notify the contact person indicated above no later than five (5) calendar days before the meeting and provide that person a written summary of their presentations to help the committee members prepare for the meeting. Efforts will be made to accommodate each organization that wishes to make a presentation. However, given time constraints, there is no guarantee that all the organizations that make such a request will be able to address the advisory committee at the June 28th meeting. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the meeting, including time for questions from committee members, the committee chairperson may impose rules or procedures, including the order of organizations that will be making presentations, as she deems necessary. If more organizations would like to make presentations than the time available permits, a schedule will be developed so that these organizations can present at the next advisory committee meeting.

The committee will meet no more than four times in each 12-month period starting after May 24, 2012. It is anticipated that all meetings will be held in Washington, DC at the U.S. DOT headquarters building. The Department will publish notices in the **Federal Register** to announce the dates, times, and locations of future meetings. Meetings of the committee will be open to the public, and time will be provided for comments by members of the public. Since access to the U.S. DOT headquarters building is controlled for security purposes, we ask that any member of the general public who plans to attend the first meeting notify the Department contact noted above no later than five (5) calendar days prior to the meeting. Attendance will be necessarily limited by the size of the meeting room.

Members of the public may present written comments at any time. The docket number referenced above has been established for committee documents including any written comments that may be filed. At the discretion of the Chairperson and time permitting, after completion of the organizational presentations in the afternoon of the first meeting, individual members of the public may provide oral comments at the meeting. Any oral comments presented must be limited to objectives of the committee and will be limited to five (5) minutes per person. Individual members of the public who wish to present oral comments must notify the Department contact noted above via email that they wish to attend and present oral comments at least five (5) calendar days prior to the meeting. For this initial meeting, no more than one hour will be set aside for oral comments by the general public.

Persons with a disability who plan to attend the meeting and require special accommodations, such as an interpreter for the hearing impaired, should contact

the Department contact noted above at least seven (7) calendar days prior to the meeting. Persons attending with a service animal should also advise us of that fact so that it can be taken into account in connection with space and possible allergy issues.

Notice of this meeting is being provided in accordance with the FACA and the General Services Administration regulations covering management of Federal advisory committees. (41 CFR Part 102–3.)

Issued in Washington, DC, on June 8, 2012.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement & Proceedings, U.S. Department of Transportation.

[FR Doc. 2012–14456 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Pilot Project Grants in Support of Railroad Safety Risk Reduction Programs

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

ACTION: Notice of Funding Availability, Solicitation of Applications.

SUMMARY: This notice details the application requirements and procedures for obtaining grant funding for pilot projects designed to eliminate or reduce railroad accidents caused by Electronic Device Distraction (EDD), by improving safety culture and making misuse socially unacceptable. Components of these pilot projects will include peer-to-peer safety training techniques, and other innovative processes. These pilot projects will be used to supplement and enhance compliance with Title 49 Code of Federal Regulations (CFR) Part 220, Subpart C, Electronic Devices. The purpose of this subpart is to reduce safety risks resulting from railroad operating employees being distracted by the inappropriate use of electronic devices, such as mobile telephones and laptop computers. This subpart was codified in response to an increase in the number of accidents caused by misuse of personal electronic devices. The opportunities described in this notice are available under the Catalog of Federal Domestic Assistance (CFDA) Number 20.301

DATES: Applications for funding under this solicitation are due no later than 5 p.m., 30 days after publication in the **Federal Register**, and must be submitted on Grants.gov. See Section 4 for additional information regarding the application process. FRA reserves the right to modify this deadline.

FOR FURTHER INFORMATION CONTACT: Michael Fitzpatrick, Risk Reduction Railroad Specialist, Risk Reduction Program Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 493–6021; or *Michael.Fitzpatrick@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

1. Funding Opportunity Description
2. Award Information
3. Eligibility Information
4. Application and Submission Information
5. Application Review Information
6. Award Administration Information
7. Payment Method
8. Agency Contact
Appendix 1: Administrative and National Policy Requirements
Appendix 2: Additional Information on Award Administrations and Grant Conditions
Appendix 3: Additional Information on Applicant Budgets

Section 1: Funding Opportunity Description

1.1 Authority

The purpose of this notice is to detail the process of applying for grant funding for risk reduction pilot projects designed to eliminate or reduce railroad accidents caused by electronic devices by making misuse of electronic devices socially unacceptable and improving safety culture using peer-to-peer coaching techniques. Congress, in Section 103 of the Rail Safety Improvement Act of 2008 (Pub. L. 110–432, October 16, 2008) required the Secretary of Transportation, by regulation, to require each railroad carrier that is either a Class I railroad, a railroad carrier that has inadequate safety performance, or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation to develop a railroad safety risk reduction program that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities. The statute also authorized the Secretary to conduct behavior-based safety and other research, including pilot programs, and to use any such research and pilot programs in developing the regulations.

1.2 Funding Approach

At least $200,000 is available for awards under this solicitation.

Section 2: Award Information

FRA anticipates making multiple awards from the $200,000 available. As such, FRA expects applicants to tailor their applications and proposed project scopes accordingly. There are no minimum or maximum dollar thresholds for awards, and FRA may choose to award a grant for less than the amount requested in the application. The funding provided under these grants will be made available to grantees on a reimbursement basis.

Section 3: Eligibility Information

3.1 Eligible Applicants

Eligible applicants include: Individual railroad(s), railroad association(s), rail labor organization(s), or a combination of a railroad and its attendant labor organization(s) developing a cooperative program (multiple stakeholders).

3.2 Cost Sharing and Matching

Applicants should specify the non-Federal match amount, if any, in their application. Applicants should indicate whether funding made available through grants provided under this program, together with committed funding from other sources, will be sufficient to complete the overall project or a discrete portion of the project. An applicant's contribution toward the cost of its proposed project may be in the form of cash or permitted in-kind contributions. As part of its application, an applicant offering an in-kind contribution must provide a documented estimate of the monetary value of any such contribution. All in-kind contributions must be allowable, reasonable, allocable, and in accordance with applicable Office of Management and Budget (OMB) cost principles (see Appendix 1), and must not represent double counting of costs otherwise accounted for in an indirect cost rate pursuant to which the applicant will seek reimbursement.

3.3 Eligible Projects

FRA is seeking innovative pilot projects that eliminate or reduce accidents where the primary or contributing cause is distraction associated with the misuse of personal electronic devices. The selected pilot projects will use innovative processes such as peer-to-peer coaching to make misuse of personal electronic devices socially unacceptable, thereby improving the safety culture and eliminating or reducing accidents caused by distractions.

Submitted applications should address the following criteria and considerations:

- Program Logic and Resource Allocation: The projects must clearly show a link between the resources being allocated, the processes and tasks being developed and executed, and the desired outcome.
- Partnership with stakeholders: Shared responsibility and program ownership are critical to a successful project, and understandings and commitments between stakeholders should be clearly defined.
- Feasibility: Projects must show feasibility and a strong likelihood of success.
- Results: Program goals (process goals such as number of people educated/trained, and end goals) must be clearly stated.
- Impact: The projected impact on safety must be stated: Local, division or region, systemwide, and industrywide (e.g. the pilot could be targeted at a single yard or terminal, single group at the location such as train, yard, and engine, single shift such as 11:00 p.m. to 7:00 a.m.).
- Schedule: Estimate time and location to begin implementation, estimate time when demonstrable improvements will be measureable.

Section 4: Application and Submission Information

4.1 Application Procedures

4.1.1 Applying Online

All applications must be submitted through Grants.gov by 5 p.m., 30 days after this notice is published in the **Federal Register**. Applicants are strongly encouraged to apply early to ensure that all materials are received before this deadline. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and submit an application can be found at Grants.gov. Registering with Grants.gov is a onetime process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension. In order to apply for funding under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. Acquire a DUNS Number

A Data Universal Numbering System (DUNS) number is required for Grants.gov registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling (866) 705–5711 or by applying online at *http://www.dnb.com/us.*

2. Acquire or Renew Registration With the Central Contractor Registration Database

All applicants for Federal financial assistance must maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of the application deadline. Information about CCR registration procedures can be accessed at *http://www.ccr.gov.*

3. Acquire an Authorized Organization Representative and a Grants.gov Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on Grants.gov and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at *http://www.Grants.gov/applicants/get_registered.jsp.*

4. Acquire Authorization for Your AOR From the E-Business Point of Contact

The Applicant's E-Business Point of Contact (EBiz POC) must log in to Grants.gov to confirm a representative as an AOR. Please note that there can be more than one AOR at an organization.

5. Search for the Funding Opportunity on Grants.gov

The CFDA number for this opportunity is 20.301. It is titled: Electronic Device Distraction Safety Culture Improvement Pilot Project Grant.

6. Submit an Application Addressing All of the Requirements Outlined in This Funding Availability Announcement

Within 24 to 48 hours after submitting an electronic application, an applicant should receive an email validation message from Grants.gov. The validation message will explain whether the application has been received and validated or rejected, with an explanation. Applicants are urged to submit an application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. If you experience difficulties at any point during this process, please call the Grants.gov Customer Center Hotline at (800) 518–4726, 24 hours a day, and 7 days a week (closed on Federal holidays).

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx, and .ppt, when uploading attachments.

4.1.2 Address To Request/Submit Application Package

To request a hard copy of the application package, please contact: Michael Fitzpatrick, Risk Reduction Railroad Specialist, Risk Reduction Program Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 493–6021; or *Michael.Fitzpatrick@dot.gov.*

4.2 Content of Application

Required documents for the application package are outlined below. Applicants must complete and submit all components of the application package; failure to do so may result in the application being removed from consideration for award.

4.2.1 Project Narrative/Statement of Work

The following points describe the minimum content that will be required in the Project Narrative/Statement of

Work elements of grant applications. These requirements must be satisfied through a narrative statement submitted by the applicant, and may be supported by spreadsheet documents, tables, drawings, and other materials, as appropriate. FRA recommends that applicants read this section carefully and submit all required information. *If an application does not address each of these requirements to FRA's satisfaction, the application may be considered incomplete and removed from consideration for award.* Each Project Narrative/Statement of Work must:

- Designate a point of contact for the applicant and provide his or her name and contact information, including phone number, mailing address, and email address. The point of contact must be an employee of an eligible applicant. Indicate the amount of Federal funding requested from the program, proposed non-Federal match, and total project cost.
- Explain how the applicant is an eligible applicant. For a full discussion of how an applicant can meet this burden, see Section 3.1 Eligible Applicants.
- Include a detailed project description with an explanation of how the project is an eligible project. For a full discussion of how an applicant can meet this burden, see Section 3.3 Eligible Projects.
- Include a thorough discussion of how the project meets all of the selection criteria. Applicants should note that FRA evaluates applications based upon the selection criteria. If an application does not sufficiently address the selection criteria, FRA will have little or no basis on which to evaluate the application; therefore, it will likely not be a competitive application. The selection criteria are described in detail in Section 5.2.
- Provide a detailed scope of work for the proposed project and include the anticipated project schedule. Describe the proposed project's physical location (as applicable). If the funding from the program is only going to be a component of the overall funding for the project, describe the complete project and specify which component will involve FRA funding. Applications should include feasibility studies and cost estimates, if completed. FRA will more favorably consider applications that include these types of studies and estimates, as they demonstrate that an applicant has a definite understanding of the scope and cost of the project. If FRA approves a project for funding, allowable costs (i.e., costs that can qualify for reimbursement from Federal funds or as part of the required non-Federal match) will have to directly support the pilot project.
- Describe proposed project implementation and project management arrangements. Include descriptions of expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting.
- Describe the anticipated benefits associated with the proposed project.
- Although FRA will weigh all of the selection criteria, potential applicants should be aware that FRA is seeking the maximum safety benefit from these limited funds.
- Format: Excluding spreadsheets, drawings, and tables, the Project Narrative/Statement of Work for grant applications may not exceed 10 pages in length. Failure to adhere to this page limitation may result in the application being removed from consideration for award.
- All application materials should be submitted as attachments through Grants.gov.
- Spreadsheets consisting of budget or financial information should be submitted via Grants.gov as Microsoft Excel (or compatible) documents.

4.4.2 Detailed Budget

Applicants must present a detailed budget for the proposed project that includes both Federal funds and matching funds. Items of cost included in the budget must be reasonable, allocable, and necessary for the project. For a non-construction project at a minimum, the budget should separate total cost of the project into the following categories, if applicable: (1) Personnel; (2) fringe benefits; (3) travel; (4) equipment; (5) supplies; (6) consultants/contracts; (7) other; and (8) indirect costs. See Appendix 3 of this solicitation for more information on project budgets.

4.3 Submission Dates and Times

Complete applications must be submitted to Grants.gov (as specified in Section 4.1) no later than 5 p.m., 30 days after this notice is published in the **Federal Register**. Grants.gov will send the applicant an automated email confirming receipt of the application. FRA reserves the right to contact applicants with any concerns, questions, or comments related to applications.

Section 5: Application Review Information

5.1 Application Review and Selection Process

Applications will proceed through a three-part review process:

1. Screening for completeness and eligibility.

2. Evaluation of eligible applications by technical panels applying the selection criteria.

3. Project selection by the FRA Administrator.

Each application will first be screened for completeness (containing all required documentation outlined in Section 4.2, and eligibility (requirements outlined in Section 3). Eligible and complete applications will then be evaluated by technical panels consisting of subject-matter experts against the selection criteria (outlined in Section 5.2). The ratings assigned by the technical panels will not constitute the final award determination. The FRA Administrator may take into account other factors determined to be relevant to achieving the goals of the program when making final award decisions.

5.2 Selection Criteria

FRA will consider the following selection factors in evaluating applications for grants under this program (all elements will have equal weight):

- Program Logic: The link between the resources being allocated, the processes and tasks being developed and executed and the desired outcome.
- Partnership with stakeholders: Shared responsibility and program ownership are critical to a successful project, clarity of understandings and commitments between stakeholders are important.
- Feasibility: Feasibility and a strong likelihood of success.
- Results: Achievement of program goals.
- Schedule: Programs with scheduled results showing sooner projected completion will be given greater consideration than programs with a longer timeline of completion.
- Cost sharing: Projects with a greater portion of matching funds will be given greater consideration, i.e. a program that proposes to match one company dollar for every grant dollar (1 to 1) would be given more consideration than a program that matches fifty cents for every grant dollar (.50 to 1).

Section 6: Award Administration Information

6.1 Award Notices

Applications selected for funding will be announced after the application review period. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. Notification of a selected application is not an authorization to begin proposed project activities. The period of performance for this grant program is dependent on the project. However, any unobligated funds will be de-obligated at the end of the 90-day close-out period, provided for in Appendix 2.4. Extensions to the period of performance will be considered only through written requests to FRA with specific and compelling justifications why an extension is required.

6.2 Administrative and National Policy Requirements

The grantee and any subgrantee shall comply with all applicable laws and regulations. For a non-exclusive list of regulations commonly applicable to FRA grants refer to Appendix 1.

6.3 General Requirements

Grant recipients must comply with reporting requirements. All post-award information pertaining to reporting, auditing, monitoring, and the close-out process is detailed in Appendix 2.

Section 7. Payment Method

Payment of FRA funding through FRA's Office of Financial Services shall be made on a reimbursable basis whereby the grantee will be reimbursed, after the submission of proper invoices, for actual expenses incurred.

The grantee will use the following method for transfer of reimbursed funds: Automated Clearing House (ACH) Electronic Vendor Payment. The grantee submits SF 3881 and SF 270.

Section 8. Agency Contact

For further information regarding this notice and the grants program, please refer to the section titled ''For Further Information Contact.''

Appendix 1. Administrative and National Policy Requirements

Appendix 1.1 Standard Financial and Program Administration Requirements

Grant recipients must follow all standard financial and program administration requirements, including:

- 49 CFR part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 49 CFR part 19, Uniform Administrative Requirements for Grants and Cooperative
- Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profits
- Organizations (OMB Circular A–110)
- Cost Principles
- 2 CFR part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87)
- 2 CFR part 220, Cost Principles for Educational Institutions (OMB Circular A–21)
- 2 CFR part 230, Cost Principles for Non-Profit Organizations (OMB A–122)
- Federal Acquisition Regulations (FAR), part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations
- Audit Requirements
- OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations

Appendix 1.2 Administrative and National Policy Requirements

Grant recipients must follow all administrative and national policy requirements including: Procurement standards, compliance with Federal civil rights laws and regulations, disadvantaged business enterprises (DBE), debarment and suspension, drug-free workplace, FRA's and OMB's Assurances and Certifications, Americans with Disabilities Act (ADA), environmental protection, National Environmental Policy Act (NEPA), and environmental justice.

Appendix 1.3 Freedom of Information Act

As a Federal agency, FRA is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552), which generally provides that any person has a right, enforceable in court, to obtain access to Federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. Grant applications and related materials submitted by applicants pursuant to this guidance will become agency records, and are subject to FOIA and to public release through individual FOIA requests. FRA also recognizes that certain information submitted in support of an application for funding in accordance with this guidance could be exempt from public release under FOIA as a result of the application of one of the FOIA exemptions, most particularly Exemption 4, which protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. 552(b)(4)). In the context of this grant program, commercial or financial information obtained from a person could be confidential if disclosure is likely to cause substantial harm to the competitive position of the person from whom the information was obtained (see *National Parks & Conservation Association* v. *Morton,* 498 F.2d 765, 770 (DC Cir. 1974)). Entities seeking exempt treatment must provide a detailed statement supporting and justifying the request and should follow FRA's existing procedures for requesting confidential treatment in the railroad safety context found at 49 CFR Section 209.11. As noted in the Department's FOIA implementing regulation (49 CFR part 7), the burden is on the entity requesting confidential treatment to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed (see 49 CFR Section 7.17). The final decision as to whether the information meets the standards of Exemption 4 rests with FRA.

Appendix 2. Additional Information on Award Administration and Grant Conditions

Appendix 2.1 Reporting Requirements

Reporting requirements must be met throughout the life of the grant (additional detail will be included in the award package provided to selected applicants).

- Progress Reports—Progress reports are to be submitted quarterly. These reports must relate the state of completion of items in the Statement of Work to expenditures of the relevant budget elements. The grant recipient must furnish the quarterly progress report to FRA on or before the 30th calendar day of the month following the end of the quarter being reported. Grantees must submit reports for the periods: January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Each quarterly report must set forth concise statements concerning activities relevant to the project, and should include, but not be limited to, the following:
  - An account of significant progress (findings, events, trends, etc.) made during the reporting period.
  - A description of any technical and/or cost problem(s) encountered or anticipated that will affect completion of the grant within the time and fiscal constraints as set forth in the agreement, together with recommended solutions or corrective action plans (with dates) to

such problems, or identification of specific action that is required by FRA, or a statement that no problems were encountered.

○ An outline of work and activities planned for the next reporting period.

• Quarterly Federal Financial Report (SF–425)—The grantee must submit a quarterly Federal financial report electronically in FRA's Web-based grant management system, GrantSolutions, on or before the 30th calendar day of the month following the end of the quarter being reported (e.g., for the quarter ending March 31, the SF–425 is due no later than April 30). A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. The grantee must use SF–425, Federal Financial Report, in accordance with the instructions accompanying the form, to report all transactions, including Federal cash, Federal expenditures and unobligated balance, recipient share, and program income.

• Final Report(s)—Within 90 days of the project completion date or termination by FRA, the grantee must submit a summary project report in GrantSolutions. This report should detail the results and benefits of the grantee's improvement efforts.

• Reports, Presentations, and Other Deliverables—Whether for technical examination, administrative review, or publication, all submittals shall be of a professional quality and suitable for their intended purpose. Due dates for submittals shall be based on the specified intervals or days from the effective date of the agreement.

Appendix 2.2 Audit Requirements

Grant recipients that expend $500,000 or more of Federal funds during their fiscal year, combined from all sources, are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the U.S. General Accountability Office, Government Auditing Standards, located at *http://www.gao.gov/govaud/ybk01.htm,* and OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations, located at *http://www.whitehouse.gov/omb/circulars/a133/a133.html.* Currently, audit reports must be submitted to the Federal Audit Clearinghouse no later than 9 months after the end of the recipient's fiscal year. In addition, FRA and the Comptroller General of the United States must have access to any books, documents, and records of grant recipients for audit and examination purposes. The grant recipient will also give FRA or the comptroller, through any authorized representative, access to, and the right to examine all records, books, papers, or documents related to the grant. Grant recipients must require that subgrantees comply with the audit requirements set forth in OMB Circular A–133. Grant recipients are responsible for ensuring that subrecipient audit reports are received and for resolving any audit findings.

Appendix 2.3 Monitoring Requirements

Grant recipients will be monitored periodically by FRA to ensure that the project goals, objectives, performance requirements, timelines, milestones, budgets, and other related program criteria are being met. FRA may conduct monitoring activities through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The recipient is responsible for monitoring award activities, including subawards and subgrantees, in order to provide reasonable assurance that the award is being administered in compliance with Federal requirements. Financial monitoring responsibilities include the accounting of recipients and expenditures, cash management, maintaining of adequate financial records, and refunding expenditures disallowed by audits.

Appendix 2.4 Closeout Process

Project closeout occurs when all required project work and all administrative procedures have been completed, and when FRA notifies the grant recipient and forwards the final Federal assistance payment, or when FRA acknowledges the grant recipient's remittance of the proper refund. Project closeout should not invalidate any continuing obligations imposed on the grantee by an award or by the FRA's final notification or acknowledgment. Within 90 days of the project completion date or termination by FRA, grantees agree to submit a final Federal Financial Report (SF–425), a certification or summary of project expenses, and a final report.

Appendix 3. Additional Information on Applicant Budgets

The information contained in this appendix is intended to assist applicants with developing the SOW budget and OMB Standard Forms 424A: Budget Information— Non-Construction Programs and 424C: Budget Information—Construction Programs, as described in Section 4.2.

Appendix 3.1 Non-Construction Project Budgets

Applicants must present a detailed budget for the proposed project that includes both Federal funds and matching funds. Items of cost included in the budget must be reasonable, allocable, and necessary for the project. At a minimum, the budget should separate total cost of the project into the following categories and provide a basis of computation for each cost:

• Personnel: List each position by title and name of employee, if available, and show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.

• Fringe Benefits: Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for personnel listed in the ''Personnel'' budget category and only for the percentage of time devoted to the project.

• Travel: Itemize travel expenses of project personnel by purpose (training, interviews, and meetings). Show the basis of computation (*e.g.,* X people to Y-day training at airfare, lodging, subsistence).

• Equipment: List non-expendable items that are to be purchased. Nonexpendable equipment is tangible property having a useful life of more than 2 years and an acquisition cost of $5,000 or more per unit. (Note: the organization's own capitalization policy may be used for items costing less than $5,000.) Expendable items should be included either in the ''Supplies'' category or in the ''Other'' category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high-cost items and those subject to rapid technical advances. Rented or leased equipment should be listed in the ''Contractual'' category. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used.

• Supplies: List items by type (office supplies, postage, training materials, copying paper, and expendable equipment items costing less than $5,000) and show the basis for computation. (Note: The organization's own capitalization policy may be used for items costing less than $5,000). Generally, supplies include any materials that are expendable or

consumed during the course of the project.

• Consultants/Contracts: Indicate whether applicant's written procurement policy (see 49 CFR Section 18.36) or the FAR are followed.

• Consultant Fees: For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day), and the estimated time on the project.

• Consultant Expenses: List all expenses to be paid from the grant to the individual consultants in addition to their fees (travel, meals, and lodging).

• Contracts: Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of $100,000.

• Other: List items (rent, reproduction, telephone, janitorial, or security services) by major type and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide the monthly rental cost and how many months to rent.

• Indirect Costs: Indirect costs are allowed only if the applicant has a federally approved indirect cost rate. A copy of the rate approval (a fully executed, negotiated agreement) must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization.

Issued in Washington, DC, on June 7, 2012.

Robert C. Lauby,

Acting Associate Administrator for Railroad Safety/Chief Safety Officer.

[FR Doc. 2012–14418 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0016]

National Environmental Policy Act Implementation

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

ACTION: Notice of intent to amend FRA's Procedures for Considering Environmental Impacts by adding categorical exclusions.

SUMMARY: FRA is publishing this notice to request comments on FRA's proposed additions to the list of categorical exclusions (CEs) contained in FRA's Procedures for Considering Environmental Impacts (Environmental Procedures). CEs are actions that FRA has determined do not individually or cumulatively have significant effects on the human or natural environment and thus, do not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS) under the National Environmental Policy Act (NEPA). FRA's Environmental Procedures currently contain twenty CEs, and FRA is proposing to add seven additional CEs.

FRA is also making a Categorical Exclusion Substantiation Document (Substantiation Document) available for public review. That document supports the proposed CEs and demonstrates that the actions covered by the proposed CEs are unlikely to have significant impacts on the human or natural environment. The Substantiation Document is available on FRA's Web site at *http://www.fra.dot.gov/*.

DATES: FRA invites the public to comment on the proposed CEs that will be added to FRA's Environmental Procedures. Comments on this notice are due on or before July 13, 2012. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0016. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov*. Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Railroad Administration'' and include docket number FRA–2012–0016. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may 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*.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Christopher Van Nostrand, Attorney Advisor, Office of the Chief Counsel, Federal Railroad Administration, 1200 New Jersey Ave. SE., W31–208, Washington, DC 20590, telephone: (202) 493–6058.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Process Used To Identify the Categorical Exclusions
III. Proposed Categorical Exclusions

I. Background

FRA's Environmental Procedures were published in the **Federal Register** on May 26, 1999 (64 FR 28545) and are available on the agency's Web site at *http://www.fra.dot.gov/Pages/252.shtml*. The Environmental Procedures establish the process for the assessment of environmental impacts of actions and legislation proposed by FRA and for the preparation and processing of documents based upon such assessments. The Environmental Procedures supplement the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508). Topics addressed in the Environmental Procedures include, among other things, the preparation of environmental impact statements (EIS), environmental assessments (EA), findings of no significant impact, and section 4(f) analyses. Section 4(c) of the Environmental Procedures identifies twenty classes of action that FRA has determined to be categorically excluded from the EIS or EA preparation requirements of NEPA and the Procedures because actions encompassed within these classes or categories do not individually or cumulatively have a significant effect on the human or natural environment. The Procedures contain a process for identifying ''extraordinary circumstances,'' or unusual situations where a particular action normally

included within one of these categories is determined to potentially have significant environmental impacts and an EA or EIS is prepared.

FRA has determined that additions to the existing list of CEs are necessary to facilitate FRA's administration of laws relating to railroad safety, development, rehabilitation, and railroad financial assistance programs, particularly the High-Speed Intercity Passenger Rail (HSIPR) grant program and the Railroad Rehabilitation and Improvement Financing (RRIF) loan/loan guarantee program. After careful consideration, FRA has determined that the actions included in the proposed seven new CEs are not of the type or character as to cause significant effects on the human or natural environment.

Recent statutory initiatives have greatly expanded FRA's ability to provide financial assistance to intercity passenger railroad projects and contributed to the need for these proposed CEs. The Passenger Rail Investment and Improvement Act (PRIIA) of 2008 (Division B of Pub. L. 110–432, 122 Stat. 4907, October 16, 2008) created three new passenger rail capital assistance programs, the intercity passenger rail corridor capital assistance program, high-speed rail corridor development, and a congestion relief program. Additionally, in an effort to stimulate the economy, create jobs and jumpstart a new era of high-speed rail in this country, Congress provided $8 billion in grant funding for projects that support high-speed intercity passenger rail programs in the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5, 123 Stat. 115). Congress also appropriated additional funds for high-speed and intercity rail projects in the Transportation, Housing and Urban Development and Related Agencies Appropriations Act for 2010 (Div A of the Consolidated Appropriations Act, 2010) (Pub. L. 111–117).

PRIIA, the Recovery Act, and other appropriations greatly expanded FRA's capacity to fund rail projects in order to achieve a world class high-speed and passenger rail program in the United States. The purpose of the HSIPR Program is to address the nation's transportation challenges by investing in efficient high-speed and intercity passenger rail networks connecting communities across America.[1] Many of these investments involve large scale projects that FRA and project sponsors (typically State transportation departments) will be preparing EISs and EAs. However, other investments and components of multi-year programs are smaller projects that FRA has concluded do not require either an EIS or an EA and could be categorically excluded if the agency had the appropriate CEs in place. Preparing EISs or EAs for projects that can be categorically excluded is not an efficient use of resources of either FRA or our state partners. Accordingly, the added CEs will facilitate the responsible and efficient implementation of the HSIPR, RRIF, and other FRA programs.

Some of the proposed CEs were chosen from the list of categorical exclusions currently employed by both the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) (see 23 CFR 771). FRA has identified these specific actions for categorical exclusion because they have direct applicability for many FRA programs and a limited potential for environmental impacts. All of the actions identified in this notice have been subject to prior extensive environmental review by FRA, FHWA and FTA, are comparable to activities categorically excluded by other Federal agencies, and were identified through FRA's benchmarking effort (described in greater detail below). These environmental reviews, mostly in the form of documented CEs and EAs, demonstrate that the actions do not individually or cumulatively have a significant effect on the human or natural environment. As required under FRA's Environmental Procedures, FRA staff evaluates each action individually to ensure that the action meets the criteria for categorical exclusion, and whether extraordinary circumstances exist that require additional environmental review.

II. Process Used To Identify the Categorical Exclusions

FRA undertook a rigorous process to identify categories of actions appropriate for new CEs. This evaluation process included an internal review by FRA's Environment and Systems Planning Division as well as FRA's Office of Chief Counsel, independent review and comment by experts enlisted by FRA in coordination with FTA and the John A. Volpe National Transportation Systems Center in Cambridge Massachusetts (Volpe Center), submission to CEQ, and now publication for public review and opportunity to comment. FRA undertook this process to ensure that the types of projects covered by the new CEs presented in Section III below do not cause significant impacts on the human or natural environment.

The list of new CEs was generated in close collaboration with FTA. FRA and FTA each have responsibility for similar types of rail projects. FTA has historically provided funding for commuter rail projects, which have many similarities to intercity passenger rail projects and to freight railroad projects. In addition to using existing FTA CEs as templates, FRA has coordinated the effort to develop new CEs with FTA and jointly submitted its CEs to NEPA experts for independent review.

FTA and FRA, in coordination with the Volpe Center, called on several expert NEPA professionals to provide feedback on FTA's and FRA's initial list of actions to be classified as CEs. The experts' opinions were very valuable in refining the CEs, including identifying appropriate limitations necessary to avoid covering activities that have the potential to have significant environmental impacts. The experts were asked to draw upon their general knowledge of and experience/involvement with NEPA environmental processes. The submission to the experts consisted of the proposed CE, a brief explanation of the CE, and a list of comparative benchmarks or similar CEs currently employed by other Federal agencies. After a period of review, the experts submitted comments to FRA that included suggested changes or modifications or, in most cases, an endorsement of the proposed CE.

After receiving the experts' comments and suggestions, FRA staff met to discuss the comments and modified the CEs where appropriate. The experts suggested ways in which to narrow the categories of actions to ensure that all covered activities were likely to have less than significant impacts. In addition, using their own professional experience, they provided insights into the potential practical application of many of the proposed CEs.

Consistent with 40 CFR 1507.3 and the *Memorandum for the Heads of Federal Departments and Agencies from Nancy H. Sutley, Chair, Council on Environmental Quality on Establishing and Applying Categorical Exclusions Under the National Environmental Policy Act* (Nov. 23, 2010), FRA consulted with CEQ prior to publishing this notice and posting the Substantiation Document for public review and comment. CEQ suggested modifications to clarify FRA's intended application and the intended scope of the proposed CEs, and the CEs proposed

[1] See Federal Railroad Administration, Vision for High-Speed Rail in America (April 2009) (describing the general approach to revitalizing high-speed and intercity passenger rail in the United States) *available at http://www.fra.dot.gov/downloads/Research/FinalFRA_HSR_Strat_Plan.pdf.*

in this notice and the accompanying Substantiation Documentation reflect CEQ's comments and suggestions.

FRA is making the Substantiation Document available on FRA's Web site *http://www.fra.dot.gov/rpd/passenger/33.shtml* for public review and comment for a period of 30 days running concurrently with this notice. After the 30 day comment period, FRA will consider comments received and make any necessary changes to address substantive issues raised by the public.

III. Proposed Categorical Exclusions

FRA is proposing to add the following seven CEs to section 4(c) of FRA's Environmental Procedures as follows:

(21) Alterations to existing facilities, locomotives, stations and rail cars in order to make them accessible for the elderly and persons with disabilities, such as modifying doorways, adding or modifying lifts, constructing access ramps and railings, modifying restrooms, or constructing accessible platforms.

(22) Bridge rehabilitation, reconstruction or replacement, and the construction of bridges, culverts, and grade separation projects, predominantly within existing right-of-way and that do not involve extensive in-water construction activities, such as projects replacing bridge components including stringers, caps, piles, or decks, the construction of roadway overpasses to replace at-grade crossings, or construction or replacement of short span bridges.

(23) Acquisition (including purchase or lease), rehabilitation, or maintenance of vehicles and equipment that does not cause a substantial increase in the use of infrastructure within the existing right-of-way or other previously disturbed locations, including locomotives, passenger coaches, freight cars, trainsets, and construction, maintenance or inspection equipment.

(24) Installation, repair and replacement of equipment and small structures designed to promote transportation safety, security, accessibility, communication or operational efficiency that take place predominantly within the existing right-of-way and do not result in a major change in traffic density on the existing rail line or facility, such as the installation, repair or replacement of surface treatments or pavement markings, small passenger shelters, railroad warning devices, train control systems, signalization, electric traction equipment and structures, electronics, photonics, and communications systems and equipment, equipment mounts, towers and structures, information processing equipment, or security equipment, including surveillance and detection cameras.

(25) Environmental restoration, remediation and pollution prevention activities in or proximate to existing and former railroad track, infrastructure, stations and facilities, including activities such as noise mitigation, landscaping, natural resource management activities, replacement or improvement to storm water systems, installation of pollution containment systems, slope stabilization, and contaminated soil removal in conformance with applicable regulations and permitting requirements.

(26) Assembly and construction of facilities and stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities and result in approximately less than 10 acres of surface disturbance, such as storage and maintenance facilities, freight or passenger loading and unloading facilities or stations, parking facilities, passenger platforms, canopies, shelters, pedestrian overpasses or underpasses, paving, or landscaping.

(27) Track and track structure maintenance and improvements when carried out predominantly within the existing right-of-way and that do not cause a substantial increase in rail traffic beyond existing or historic levels, such as stabilizing embankments, installing or reinstalling track, re-grading, replacing rail, ties, slabs and ballast, improving or replacing interlockings, or the installation or maintenance of ancillary equipment.

Issued in Washington, DC, on June 5, 2012.

Joseph C. Szabo,

Administrator.

[FR Doc. 2012–14414 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2012–0066]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed revision of the previously approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes an Information Collection Request (ICR) for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before August 13, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2012–0066 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

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

Hand Delivery: 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.

Fax: 1–202–493–2251

Instructions: Each submission must include the Agency name and the Docket number for the Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mary Hinch, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–132), National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE., W46–500, Washington, DC 20590. Mary Hinch's phone number is 202–366–5595 and her email address is *mary.hinch@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How 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 or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Title: NHTSA Distracted Driving Survey Project.

Type of Request: Revision of previously approved collection of information.

OMB Clearance Number: 2127–0665.

Form Number: NHTSA Form 1084.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) proposes to conduct awareness surveys to evaluate two traffic safety programs designed to reduce distracted driving. One program will focus on hand-held phone use and be conducted statewide in two States. If clearance is granted, the awareness surveys would be conducted in-person before and after four program waves. Over the program period, 40,000 people would be surveyed, 20,000 in each State. The other program will focus on texting behavior and be conducted at the community level in two States. If clearance is granted, the awareness surveys would either be conducted in-person or by telephone before and after four program waves. Surveys would be conducted in two communities in each State. Over the program period, 20,000 people would be surveyed, 10,000 in each State. Estimated interview length would be approximately 10 minutes for each survey. Information on attitudes, awareness, knowledge, and behavior would be collected through both surveys.

A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. Additionally, the proposed surveys would be anonymous; the surveys would not collect any personal information that would allow anyone to identify respondents. Participant names would not be collected during the interview. For the telephone surveys, the telephone number used to reach the respondent would be separated from their responses prior to entry into the analytical database. In addition, for the telephone surveys, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors.

Description of the Need for the Information and Proposed Use of the Information: NHTSA was established by the Highway Safety Act of l970 (23 U.S.C. 101) to carry out a Congressional mandate to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs. According to the Overview of NHTSA's Driver Distraction Program (see distraction.gov), research suggests that driving distracted may degrade driver performance by imposing additional workload on the driver. As summarized in the overview, distraction may result in reduced eye scanning behavior, slower reaction time, degraded vehicle control, and lower detection of objects in peripheral vision.

Driving distracted may influence the likelihood of a crash. This supports the need for strong evaluation efforts to identify what interventions are effective at reducing distracted driving. In this effort, NHTSA proposes to conduct information collections to assess the effectiveness of two traffic safety programs designed to reduce distracted driving. The programs will use waves of public media and enhanced enforcement activity to increase the perceived likelihood of getting a ticket for driving distracted and, consequently, decrease the occurrence of distracted driving behavior. NHTSA would like to conduct public awareness surveys to gather information from the driving public regarding their experience of the programs, including their awareness, perception, and knowledge of the programs. An essential part of these evaluation efforts is to compare baseline and post-program measures to determine if the programs contribute to changes in participant responses; therefore, multiple measurements would be required.

The findings from these two proposed information collections would build on existing knowledge. In 2010 and 2011, NHTSA conducted a high visibility enforcement program in Hartford, Connecticut and Syracuse, New York using enhanced enforcement and the media campaign, *Phone in One Hand, Ticket in the Other,* to reduce distracted driving behavior. The program demonstrated that this could be done at the community level, exhibited by decreases in both observed hand-held phone use and electronic device manipulation (e.g., texting). The next major step is to demonstrate how this program can be implemented statewide. NHTSA will be taking this step through a statewide distracted driving demonstration program. The findings from the first proposed information collection would provide a fuller understanding of this process. The CT NY program revealed challenges in enforcing distracted driving laws, especially with texting behavior, which can be performed below the line of sight. It is valuable to develop and test enforcement strategies to determine the ones that are effective. NHTSA will be testing enforcement strategies through a high visibility enforcement texting program. The findings from the second proposed information collection would provide insight into the effectiveness of the strategies.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information): NHTSA intends to collect data from 60,000 drivers to conduct awareness surveys for two separate distracted driving evaluation efforts. The distracted driving program focused on hand-held phone use will be conducted statewide in two States. If clearance is granted, awareness surveys would be administered in-person to a population 18 years and older, before and after four program waves. Surveys would be conducted at 10 sites in each State and 250 surveys would be administered at each site per measurement period. Over 4 waves (i.e., 8 measurement periods), 40,000 people would be surveyed in both States (20,000 in each State). (Two States * 10 locations in each State * 250 surveys per measurement period * 8 measurement periods = 40,000 total surveys.)

The distracted driving program focused on texting behavior will be conducted at the community level in two States. If clearance is granted, awareness surveys would be administered in-person or by telephone to a population 18 years and older, before and after four program waves. Surveys would be conducted in two communities in each State. For the very first and very last measurement periods,

1,000 surveys would be conducted. This would be done to increase the power required to measure change. For all other measurement periods, 500 surveys would be conducted. Over 4 waves (i.e., 8 measurement periods), 10,000 people would be surveyed in each State (20,000 people would be surveyed in both States). (Two States * 2 communities in each State * (2 measurement periods * 1,000 surveys) + (6 measurement periods * 500) = 20,000 surveys.)

For the telephone surveys, interviews would be conducted with persons at both residential phone numbers and cell phone numbers. Systematic sampling procedures would include Random Digit Dial sampling techniques. Federal law prohibits the use of auto dialing to call cell phones; therefore all cell phone numbers would be dialed manually. For interviews conducted with persons using landline phones, no more than one respondent per household would be selected. For interviews conducted with persons on cell phones, a single user of the cell phone would be selected. Each sample member would complete just one interview. Businesses are ineligible for the sample and would not be interviewed.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information: For the statewide hand-held program, NHTSA estimates interviews would require an average of 10 minutes to complete or a total of 6,667 hours for the 40,000 respondents. For the community texting program, NHTSA estimates interviews would require an average of 10 minutes to complete or a total of 3,333 hours for the 20,000 respondents. Thus, for both proposed surveys, the total time burden on the general public would be 10,000 hours. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or recordkeeping cost from the information collection.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued on: June 8, 2012.

Jeffrey Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2012–14413 Filed 6–12–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35621]

Genesee & Wyoming Inc.—Continuance in Control Exemption—Columbus & Chattahoochee Railroad, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323–25 for Genesee & Wyoming Inc. (GWI), a noncarrier, to continue in control of Columbus & Chattahoochee Railroad, Inc. (CCR), upon CCR's becoming a Class III rail carrier in a related transaction involving the lease from Norfolk Southern Railway Company (NSR), and operation of, a 25.50-mile rail line between Girard and Mahrt, Ala.,[1] subject to labor protective conditions. GWI is a holding company that directly or indirectly controls one Class II rail carrier and 59 Class III rail carriers. The NSR line that CCR will lease and operate indirectly connects with Georgia Southwestern Railroad, Inc. (GSWR), a Class III carrier controlled by GWI.

DATES: This exemption will be effective on July 1, 2012. Petitions for stay must be filed by June 19, 2012. Petitions to reopen must be filed by June 25, 2012.

ADDRESSES: Send an original and 10 copies of all pleadings referring to Docket No. FD 35621, to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of pleadings to Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245–0368. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site at *www.stb.dot.gov.*

Decided: June 7, 2012.

[1] *See Columbus & Chattahoochee R.R.—Lease & Operation Exemption—Norfolk S. Ry.,* FD 35620 (STB served May 11, 2012).

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–14423 Filed 6–12–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning substantiation requirement for certain contributions.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Substantiation Requirement for Certain Contributions.

OMB Number: 1545–1431.

Regulation Project Number: IA–74–93 (Final).

Abstract: These regulations provide that, for purposes of substantiation for certain charitable contributions, consideration does not include de minimis goods or services. It also provides guidance on how taxpayers may satisfy the substantiation requirement for contributions of $250 or more.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and non-profit institutions.

Estimated Number of Respondents: 16,000.

Estimated Time per Respondent: 3 hours, 13 minutes.

Estimated Total Annual Burden Hours: 51,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14327 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments excise tax relating to structured settlement factoring transactions.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Relating to Structured Settlement Factoring Transactions.

OMB Number: 1545–1824.

Regulation Project Number: REG–139768–02.

Abstract: The regulations provide rules relating to the manner and method of reporting and paying the 40 percent excise tax imposed by section 5891 of the Internal Revenue Code with respect to acquiring of structured payment rights.

Current Actions: There is no change to this existing regulation.

Type of Review: Exteneion of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 4.

Estimated Time per Respondent: 30 min.

Estimated Total Annual Burden Hours: 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14328 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–19 and Notice 98–34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–19 and Notice 98–34, Guidance for Expatriates under Internal Revenue Code sections 877, 2501, 2107 and 6039F.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Guidance for Expatriates under Internal Revenue Code section 877, 2501, 2107 and 6039F.

OMB Number: 1545–1531.

Notice Number: Notice 97–19 and Notice 98–34.

Abstract: Notice 97–19 and Notice 98–34 provide guidance regarding the federal tax consequences for certain individuals who lose U.S. citizenship, cease to be taxed as U.S. lawful permanent residents, or are otherwise subject to tax under Code section 877. The information required by these notices will be used to help make a determination as to whether these taxpayers expatriated with a principal purpose to avoid tax.

Current Actions: There are no changes being made to the notices at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 12,350.

Estimated Time per Respondent: 32 minutes.

Estimated Total Annual Burden Hours: 6,525.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14329 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2007–70

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2007–70, Charitable Contributions of Certain Motor Vehicles, Boats and Airplanes, reporting Requirements under § 170(f)(12)(D).

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Charitable Contributions of Certain Motor Vehicles, Boats and Airplanes, reporting Requirements under § 170(f)(12)(D).

OMB Number: 1545–1980.

Notice Number: Notice 2006–01.

Abstract: Charitable organizations are required to send an acknowledgement of car donations to the donor and to the Service. The purpose of is to prevent donors from taking inappropriate deductions.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, Individuals or Households.

Estimated Number of Respondents: 4,300.

Estimated Average Time per Respondent: 5 hrs. 6 min.

Estimated Total Annual Burden Hours: 21,930.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14330 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 911

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 911, Application for Taxpayer Assistance Order (ATAO).

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Taxpayer Assistance Order (ATAO).

OMB Number: 1545–1504.

Form Number: 911.

Abstract: This form is used by taxpayers to apply for relief from a significant hardship which may have already occurred or is about to occur if the IRS takes or fails to take certain actions. This form is submitted to the IRS Taxpayer Advocate Office in the district where the taxpayer lives.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 93,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 46,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14331 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning returns required with respect to controlled foreign partnerships and information reporting with respect to certain foreign partnerships and certain foreign corporations.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Section 6038—Returns Required with Respect to Controlled Foreign Partnerships, and Information reporting with Respect to Certain Foreign Partnerships and Certain Foreign Corporations.

OMB Number: 1545–1617.

Regulation Project Number: REG–124069–02, REG–118966–97.

Abstract: REG–124069–02: Treasury Regulation § 1.6038–3 requires certain United States person who own interests in controlled foreign partnerships to annually report information to the IRS on Form 8865. This regulation amends the reporting rules under Treasury Regulation section § 1.6038–e to provide that a U.S. person must follow the filing requirements that are specified in the instructions for Form 8865 when the U.S. person must file Form 8865 and the foreign partnership completes and files Form 1065 or Form 1065–B. *REG–118966–97:* Section 6038 requires certain U.S. persons who own interest in controlled foreign partnerships or certain foreign corporations to annually report information to the IRS. This regulation provides reporting rules to identify foreign partnerships and foreign corporations which are controlled by U.S. persons.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit institutions and individuals or households.

Estimated Number of Respondents: 600.

Estimated Total Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 6, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14332 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning information reporting for qualified tuition and related expenses, magnetic media filing requirements for information returns, information reporting for payments of interest on qualified education loans, and magnetic media filing requirements for information.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: REG–161424–01 (Final), Information Reporting for Qualified Tuition and Related Expenses; Magnetic Media Filing Requirements for Information Returns, and REG–105316–98 (Final), Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information.

OMB Number: 1545–1678.

Regulation Project Numbers: REG–105316–98 and REG–161424–01.

Abstract: These regulations relate to the information reporting requirements in section 6050S of the Internal Revenue Code for payments of qualified tuition and related expenses and interest on qualified education loans. These regulations provide guidance to eligible education institutions, insurers, and payees required to file information returns and to furnish information statements under section 6050S.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

The burden is reflected in the burdens for Form 1098–T and Form 1098–E.

Estimated total annual reporting burden for Form 1098–T: 4,848,090 hours.

Estimated average annual burden hours per response for Form 1098–T: 13 minutes.

Estimated number of responses for Form 1098–T: 21,078,651.

Estimated total annual reporting burden for Form 1098–E: 1,051,357 hours.

Estimated average annual burden hours per response for Form 1098–E: 7 minutes.

Estimated number of responses for Form 1098–E: 8,761,303.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14333 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8881

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8881, Credit for Small Employer Pension Plan Startup Costs.

DATES: Written comments should be received on or before August 13, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Small Employer Pension Plan Startup Costs.

OMB Number: 1545–1810.

Form Number: 8881.

Abstract: Qualified small employers use Form 8881 to request a credit for start up costs related to eligible retirement plans. Form 8881 implements section 45E, which provides a credit based on costs incurred by an employer in establishing or administering an eligible employer plan or for the retirement-related education of employees with respect to the plan. The credit is 50% of the qualified costs for the tax year, up to a maximum credit of $500 for the first tax year and each of the two subsequent tax years.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 66,667.

Estimated Time per Respondent: 3 hours, 32 minutes.

Estimated Total Annual Burden Hours: 235,335.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012–14334 Filed 6–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee June 26, 2012, Public Meeting

ACTION: Notification of Citizens Coinage Advisory Committee June 26, 2012, Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for June 26, 2012.

DATES: June 26, 2012.

Time: 9:00 a.m. to 2:00 p.m.

Location: 8th Floor Board Room, United States Mint, 801 9th Street NW., Washington, DC 20220.

Subject: Review and consideration of candidate designs for the 5-Star Generals Commemorative Coin Program, and review and consideration of additional tribal candidate designs for the Code Talkers Recognition Congressional Gold Medals. In addition, the CCAC plans a discussion relating to the 2011 CCAC Annual Report.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Andy Fishburn, United States Mint Liaison to the CCAC, 801 9th Street NW.; Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: June 7, 2012.

David Motl,

Acting Deputy Director, United States Mint.

[FR Doc. 2012–14425 Filed 6–12–12; 8:45 am]

BILLING CODE P



FEDERAL REGISTER

Vol. 77 Wednesday,
No. 114 June 13, 2012

Part II

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2010–0066; FXFR13350700640L6–123–FF07J00000]

RIN 1018–AX33

Subsistence Management Regulations for Public Lands in Alaska—2012–13 and 2013–14 Subsistence Taking of Wildlife Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to the taking of wildlife for subsistence uses in Alaska during the 2012–13 and 2013–14 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. This rulemaking replaces the wildlife taking regulations that expire on June 30, 2012. This rule also revises wildlife customary and traditional use determinations and the general regulations on subsistence taking of fish and wildlife.

DATES: This rule is effective July 1, 2012.

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, Alaska 99503, or on the Office of Subsistence Management Web site (*http://alaska.fws.gov/asm/index.cfml*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Steve Kessler, Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 743–9461 or *skessler@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). This Program grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this program in the **Federal Register** on May 29, 1992 (57 FR 22940). These regulations have subsequently been amended several times. Because this Program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Federal Subsistence Board

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair, appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

Federal Subsistence Regional Advisory Councils

In administration of the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resources to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Advisory Council members represent diverse geographical, cultural, and user interests within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section ____.24 (customary and traditional use determinations) was originally published in the **Federal Register** on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. * * *'' Since 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.

MODIFICATIONS TO § ____.24—Continued

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
Note: The Board met May 20–22, 2003, but did not make any additional customary and traditional use determinations.		
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.
70 FR 36268	June 22, 2005	Wildlife.
71 FR 15569	March 29, 2006	Fish/Shellfish.
71 FR 37642	June 30, 2006	Wildlife.
72 FR 12676	March 16, 2007	Fish/Shellfish.
Note: The Board met December 11–13, 2007, but did not make any additional customary and traditional use determinations.		
72 FR 73426	December 27, 2007	Wildlife/Fish.
73 FR 35726	June 26, 2008	Wildlife.
74 FR 14049	March 30, 2009	Fish/Shellfish.
75 FR 37918	June 30, 2010	Wildlife.
76 FR 12564	March 8, 2011	Fish.

Current Rule for Wildlife

The Departments published a proposed rule on February 9, 2011 (76 FR 6730), to amend the wildlife sections of subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a comment period, which closed on March 24, 2011. The Departments advertised the proposed rule by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 95 (12 were deferred from the previous cycle) proposals for changes to subparts C and D. After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The proposals were also available online. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations.

The 10 Regional Advisory Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Regional Advisory Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board meeting on January 17–20, 2012. These final regulations reflect Board review and consideration of Regional Advisory Council recommendations and Tribal and public comments. The public received extensive opportunity to review and comment on all changes. In section ____.24(a)(1), corrections to the spelling of certain village names and an updated format have been made, resulting in a more readable document.

Of the 95 proposals, 5 were withdrawn by the proponents, 50 were on the Board's regular agenda, and 40 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Subsistence Regional Advisory Councils, a majority of the Interagency Staff Committee, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the regular agenda. The Board votes en masse on the consensus agenda after deliberation and action on all other proposals. Of the proposals on the consensus agenda, the Board adopted 14; adopted 2 with modification; rejected 21; and took no action on 3. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, Alaska 99503, or on the Office of Subsistence Management Web site (*http://alaska.fws.gov/asm/index.cfml*). Of the proposals on the regular agenda, the Board adopted 6; adopted 22 with modification; rejected 12; and took no action on 10.

Summary of Non-Consensus Proposals Rejected or No Action Taken by the Board

The Board rejected or took no action on 22 non-consensus proposals. The rejected proposals were recommended for rejection by one or more of the Regional Councils unless noted below.

Statewide

The Board took no action on a brown bear handicraft proposal, based on its action on a similar proposal.

The Board rejected a proposal to change the designated hunter permit to only allow persons 60 years or older or disabled to designate another to hunt for them. This proposal would have been unnecessarily restrictive to subsistence users.

The Board rejected a proposal to require trappers to move a trap that incidentally harvests an ungulate at least 300 feet for the remainder of the regulatory year. This proposal would have been unnecessarily restrictive to subsistence users.

Unit Specific

The Board took no action on a proposal to lengthen the trapping season in Units 1–4 for coyote based on its action on a similar proposal.

The Board rejected a proposal to close selected areas of Units 1 and 2 to brown bear hunting. This proposal would have been detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to limit the number of recipients a designated hunter may hunt deer for in Units 1B and 3. This proposal would have been detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to shorten the season in Unit 4 for deer. This proposal would have been detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to require antler destruction in Units 1–5 for deer and moose. This proposal would have been detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to establish a season and harvest limit in a portion of Unit 7 for moose. This proposal was found to violate recognized principles of wildlife conservation. This action was contrary to the Council recommendation.

The Board took no action on six proposals to revise season dates and permit requirements for moose in Unit 9 based on its action on a similar proposal.

The Board rejected a proposal to lengthen the season and increase the harvest limit in Unit 10 for wolves. This proposal was found to violate recognized principles of wildlife conservation. Board action was contrary to the Council recommendation.

The Board rejected a proposal to establish a season and harvest limit in Unit 11 for caribou. This proposal was found to violate recognized principles of wildlife conservation. This action was contrary to one council recommendation and consistent with the recommendation of another.

The Board took no action on two proposals to change the harvest limit and season for caribou in Unit 12 based on its action on a similar proposal.

The Board rejected a proposal to limit the use of aircraft during moose season in a portion of Unit 18. The Board does not have jurisdiction to restrict access methods on State and private lands. This action was contrary to the one Council's recommendation, one Council deferred making a recommendation, and another took no action.

The Board rejected a proposal to extend the fall season for moose in Unit 21B. The proposal was found to violate recognized principles of wildlife conservation. This action was contrary to one council recommendation and consistent with the recommendation of another.

The Board rejected a proposal to reduce the harvest limit of wolves in Unit 22 as being unnecessarily restrictive to subsistence users and not supported by substantial evidence.

Summary of Non-Consensus Proposals Adopted by the Board

The Board adopted or adopted with modification 27 non-consensus proposals. Modifications were suggested by the affected Regional Council(s), developed during the analysis process, suggested during tribal consultations, or developed during the Board's public deliberations. All of the adopted proposals were recommended for adoption by at least one of the Regional Councils unless noted below.

Statewide

The Board adopted a proposal with modification which requires that prior to selling a handicraft incorporating brown bear claw(s), the hide or claw(s) not attached to a hide, must be sealed by an Alaska Department of Fish and Game representative.

Unit Specific

The Board adopted a proposal with modification to allow the retention of coyotes that are taken incidentally while trapping in Units 1–5.

The Board adopted a proposal with modification to add mountain goat to the Federal Subsistence Designated Hunter permit and to limit the goat possession limit in Units 1–5.

The Board adopted a proposal to change the harvest limit for the Native Village of Eyak's annual Memorial Potlatch in Units 6B and 6C.

The Board adopted a proposal with modification to close the hunting season for fox in Unit 7. This action was based on conservation concerns and was contrary to the Council recommendation.

The Board adopted a proposal with modification to revise season dates and permit requirements for moose in Unit 9.

The Board adopted a proposal with modification to establish a season and harvest limit for caribou in Unit 9D.

The Board adopted a proposal with modification to revise the season dates of the elder and elder/minor hunts in Units 11 and 12, and the harvest limit of the elder and elder/minor hunts in Unit 11.

The Board adopted two proposals, one with modification, to revise the season dates, harvest limits, area descriptors, and permit requirements in Units 11 and 12 for moose.

The Board adopted a proposal to recognize the residents of Chistochina as having a positive customary and traditional use determination for caribou in Unit 12.

The Board adopted a proposal with modification to establish a season for caribou in a portion of Unit 12 and to close public lands except by residents of Chisana, Chistochina, Mentasta, Northway, Tetlin, and Tok.

The Board adopted with modification two proposals to revise the seasons and permit requirements for moose in Unit 12.

The Board adopted a proposal to lengthen the season for caribou in Unit 13. This proposal was supported by one Council and contrary to another.

The Board adopted a proposal with modification to recognize the residents of Ninilchik as having a positive customary and traditional use determination for brown bear in Units 15A and 15B. The Board deferred a decision for residents of Ninilchik on the customary and traditional use determination for brown bear in Unit 8 so that the two affected Councils may discuss the issue and present the Board with their findings.

The Board adopted a proposal with modification to establish area descriptors in Unit 18 and to shorten the season for caribou in a portion of Unit 18. This proposal was supported by two Councils, opposed by one, and another took no action.

The Board adopted a proposal to increase the harvest limit and lengthen the season for lynx in Unit 18.

The Board adopted a proposal with modification to allow the take of moose from a boat moving under power in an additional area of Unit 18.

The Board adopted a proposal with modification to increase the harvest limit for ptarmigan in Unit 18. This action was contrary to the Council's recommendation, and was based on the recommendation being made prior to a regulatory change made by the Alaska Board of Game.

The Board adopted a proposal with modification to prohibit the pursuit of ungulates with a motorized vehicle while the animal is at or near a full gallop in Unit 18. This decision was supported by one Council and contrary to two Councils recommendations. This proposal was supported by subsistence users in the local area and is not likely to be detrimental to the satisfaction of subsistence needs.

The Board adopted a proposal with modification to lengthen the season for moose in Unit 20E.

The Board adopted two proposals, one with modification, to align State and Federal boundaries within portions of Unit 24B and revise the permit requirements for the take of moose.

The Board adopted a proposal to close a portion of Unit 25A to the taking of sheep by non-Federally qualified users.

The Board adopted a proposal with modification to increase the harvest limit of brown bear in Unit 25D.

The Board adopted a proposal with modification to lengthen the season for brown bear in Units 26A and 26B.

These final regulations reflect Board review and consideration of Regional Council recommendations and Tribal and public comments. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR 242 and 50 CFR 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analyses and examined the environmental consequences of four alternatives. Proposed regulations (subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for a regulatory cycle regarding subsistence hunting and fishing regulations (subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comments received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of a regulatory cycle for subsistence hunting and fishing regulations. The final rule for subsistence management regulations for public lands in Alaska, subparts A, B, and C, implemented the Federal Subsistence Management Program and included a framework for a regulatory cycle for the subsistence taking of wildlife and fish. The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	''Subsistence Management Regulations for Public Lands in Alaska; Final Rule'' was published in the **Federal Register**.
64 FR 1276	January 8, 1999	Final Rule	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Because no adverse comments were received on the direct final rule (67 FR 30559), the direct final rule was adopted.
69 FR 60957	October 14, 2004	Final Rule	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of ''regulatory year'' from subpart A to subpart D of the regulations.

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation	Date of publication	Category	Details
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997	August 24, 2006	Final Rule	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688	May 7, 2007	Final Rule	Revised nonrural determinations.
75 FR 63088	October 14, 2010	Final Rule	Amended the regulations for accepting and addressing special action requests and the role of the Regional Advisory Councils in the process.
76 FR 56109	September 12, 2011	Final Rule	Revised the composition of the Board.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the following collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100: Subsistence hunting and fishing applications, permits, and reports, Federal Subsistence Regional Advisory Council Membership Application/Nomination and Interview Forms (OMB Control No. 1018–0075 expires January 31, 2013).

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) 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

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. Therefore, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost

imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act does not provide rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided Federally recognized Tribes and Alaska Native Corporations an opportunity to consult on this rule. Consultation with Alaska Native Corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native Corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for tribal consultation: submitting proposals to change the existing rule, commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during this rulemaking process. In addition, 12 teleconference opportunities were provided to allow for consultation with the Board in each of the 10 subsistence resource regions for Tribal entities and two specifically for Alaska Native Corporations.

On January 17, 2012, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, § ____.24(a)(1) is revised to read as follows:

§ ____.24 Customary and traditional use determinations.

(a) * * *

(1) *Wildlife determinations.* The rural Alaska residents of the listed communities and areas have a customary and traditional use of the specified species on Federal public lands within the listed areas:

Area	Species	Determination
Unit 1C	Black Bear	Residents of Units 1C, 1D, 3, Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
Unit 1A	Brown Bear	Residents of Unit 1A, excluding residents of Hyder.
Unit 1B	Brown Bear	Residents of Unit 1A, Petersburg, and Wrangell, excluding residents of Hyder.
Unit 1C	Brown Bear	Residents of Unit 1C, Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, excluding residents of Gustavus.
Unit 1D	Brown Bear	Residents of Unit 1D.
Unit 1A	Deer	Residents of Units 1A and 2.
Unit 1B	Deer	Residents of Units 1A, 1B, 2, and 3.
Unit 1C	Deer	Residents of Units 1C, 1D, Hoonah, Kake, and Petersburg.
Unit 1D	Deer	No Federal subsistence priority.
Unit 1B	Goat	Residents of Units 1B and 3.
Unit 1C	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
Unit 1B	Moose	Residents of Units 1, 2, 3, and 4.
Unit 1C	Moose	Residents of Units 1, 2, 3, 4, and 5.

Area	Species	Determination
Unit 1D	Moose	Residents of Unit 1D.
Unit 2	Deer	Residents of Units 1A, 2, and 3.
Unit 3	Deer	Residents of Units 1B, 3, Port Alexander, Port Protection, Pt. Baker, and Meyers Chuck.
Unit 3, Wrangell and Mitkof Islands	Moose	Residents of Units 1B, 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
Unit 4	Deer	Residents of Unit 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, Wrangell, and Yakutat.
Unit 4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5A.
Unit 5	Brown Bear	Residents of Yakutat.
Unit 5	Deer	Residents of Yakutat.
Unit 5	Goat	Residents of Unit 5A
Unit 5	Moose	Residents of Unit 5A.
Unit 5	Wolf	Residents of Unit 5A.
Unit 6A	Black Bear	Residents of Yakutat and Units 6C and 6D, excluding residents of Whittier.
Unit 6, remainder	Black Bear	Residents of Units 6C and 6D, excluding residents of Whittier.
Unit 6	Brown Bear	No Federal subsistence priority.
Unit 6A	Goat	Residents of Units 5A, 6C, Chenega Bay, and Tatitlek.
Unit 6C and Unit 6D	Goat	Residents of Units 6C and D.
Unit 6A	Moose	Residents of Units 5A, 6A, 6B, and 6C.
Unit 6B and Unit 6C	Moose	Residents of Units 6A, 6B, and 6C.
Unit 6D	Moose	No Federal subsistence priority.
Unit 6A	Wolf	Residents of Units 5A, 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 7	Brown Bear	No Federal subsistence priority.
Unit 7	Caribou	Residents of Hope.
Unit 7, Brown Mountain hunt area	Goat	Residents of Port Graham and Nanwalek.
Unit 7, that portion draining into Kings Bay	Moose	Residents of Chenega Bay, Cooper Landing, Hope, and Tatitlek.
Unit 7, remainder	Moose	Residents of Cooper Landing and Hope.
Unit 7	Sheep	No Federal subsistence priority.
Unit 7	Ruffed Grouse	No Federal subsistence priority.
Unit 8	Brown Bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
Unit 8	Deer	Residents of Unit 8.
Unit 8	Elk	Residents of Unit 8.
Unit 8	Goat	No Federal subsistence priority.
Unit 9D	Bison	No Federal subsistence priority.
Unit 9A and Unit 9B	Black Bear	Residents of Units 9A, 9B, 17A, 17B, and 17C.
Unit 9A	Brown Bear	Residents of Pedro Bay.
Unit 9B	Brown Bear	Residents of Unit 9B.
Unit 9C	Brown Bear	Residents of Unit 9C, Igiugig, Kakhonak, and Levelock.
Unit 9D	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 9E	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
Unit 9A and Unit 9B	Caribou	Residents of Units 9B, 9C, and 17.
Unit 9C	Caribou	Residents of Units 9B, 9C, 17, and Egegik.
Unit 9D	Caribou	Residents of Unit 9D, Akutan, and False Pass.
Unit 9E	Caribou	Residents of Units 9B, 9C, 9E, 17, Nelson Lagoon, and Sand Point.
Unit 9A, Unit 9B, Unit 9C and Unit 9E	Moose	Residents of Units 9A, 9B, 9C, and 9E.
Unit 9D	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
Unit 9B	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and Lake Clark National Park and Preserve within Unit 9B.
Unit 9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 9A, Unit 9B, Unit 9C, and Unit 9E	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 10 Unimak Island	Brown Bear	Residents of Units 9D and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, False Pass, King Cove, and Sand Point.
Unit 10, remainder	Caribou	No Federal subsistence priority.
Unit 10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Bison	No Federal subsistence priority.

Area	Species	Determination
Unit 11, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Caribou	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Caribou	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11	Goat	Residents of Unit 11, Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake, Tok Cutoff Road (mileposts 79–110 Mentasta Pass), and Nabesna Road (mileposts 25–46).
Unit 11, north of the Sanford River	Moose	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Moose	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11, north of the Sanford River	Sheep	Residents of Unit 12, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
Unit 11, remainder	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Tok Cutoff—Milepost 79–110 (Mentasta Pass), residents along the Nabesna Road—Milepost 0–46 (Nabesna Road), and residents along the McCarthy Road—Milepost 0–62 (McCarthy Road).
Unit 11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 12, 13, and Chickaloon, 15, 16, 20D, 22, and 23.
Unit 11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 12, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 12	Brown Bear	Residents of Unit 12, Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
Unit 12	Caribou	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake.	Moose	Residents of Units 12 and 13C, Dot Lake, and Healy Lake.
Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.	Moose	Residents of Units 12 and 13C and Healy Lake.
Unit 12, remainder	Moose	Residents of Unit 11 north of 62nd parallel, Units 12 and 13A–D, Chickaloon, Dot Lake, and Healy Lake.
Unit 12	Sheep	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Brown Bear	Residents of Unit 13 and Slana.
Unit 13B	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, 20D (excluding residents of Fort Greely), and Chickaloon.
Unit 13C	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, Chickaloon, Dot Lake, and Healy Lake.

Area	Species	Determination
Unit 13A and Unit 13D	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and Chickaloon.
Unit 13E	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Goat	No Federal subsistence priority.
Unit 13A and Unit 13D	Moose	Residents of Unit 13, Chickaloon, and Slana.
Unit 13B	Moose	Residents of Units 13 and 20D (excluding residents of Fort Greely) and Chickaloon and Slana.
Unit 13C	Moose	Residents of Units 12 and 13, Chickaloon, Healy Lake, Dot Lake, and Slana.
Unit 13E	Moose	Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Sheep	No Federal subsistence priority.
Unit 13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Grouse (Spruce, Blue, Ruffed Sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 14C	Brown Bear	No Federal subsistence priority.
Unit 14	Goat	No Federal subsistence priority.
Unit 14	Moose	No Federal subsistence priority.
Unit 14A and Unit 14C	Sheep	No Federal subsistence priority.
Unit 15A and Unit 15B	Black Bear	Residents of Ninilchik.
Unit 15C	Black Bear	Residents of Ninilchik, Port Graham, and Nanwalek.
Unit 15	Brown Bear	Residents of Ninilchik.
Unit 15A and Unit 15B	Moose	Residents of Cooper Landing, Ninilchik, Nanwalek, Port Graham, and Seldovia.
Unit 15C	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
Unit 15	Sheep	No Federal subsistence priority.
Unit 15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Unit 15.
Unit 15	Grouse (Spruce)	Residents of Unit 15.
Unit 15	Grouse (Ruffed)	No Federal subsistence priority.
Unit 16B	Black Bear	Residents of Unit 16B.
Unit 16	Brown Bear	No Federal subsistence priority.
Unit 16A	Moose	No Federal subsistence priority.
Unit 16B	Moose	Residents of Unit 16B.
Unit 16	Sheep	No Federal subsistence priority.
Unit 16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 16	Grouse (Spruce and Ruffed).	Residents of Units 11, 13,Chickaloon, 15, 16, 20D, 22 and 23.
Unit 16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22 and 23.
Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
Unit 17, remainder	Black Bear	Residents of Units 9A and B, and 17.
Unit 17A and Unit 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
Unit 17A, remainder	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Akiak and Akiachak.
Unit 17B and Unit 17C	Brown Bear	Residents of Unit 17.
Unit 17A, that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Akiak, Akiachak, and Tuluksak.

Area	Species	Determination
Units 17A and 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Bethel, Goodnews Bay, Platinum, Quinhagak, Eek, Akiak, Akiachak, Tuluksak, Tuntutuliak, and Napakiak.
Unit 17, remainder	Caribou	Residents of Units 9B, 17, Lime Village, and Stony River.
Units 17A and 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Kwethluk.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Akiak and Akiachak.
Unit 17 A, remainder	Moose	Residents of Unit 17, Goodnews Bay and Platinum; excluding residents of Akiachak, Akiak, and Quinhagak.
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Akiak and Akiachak.
Unit 17B, remainder and Unit 17C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
Unit 17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 18	Black Bear	Residents of Unit 18, Unit 19A living downstream of the Holokuk River, Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
Unit 18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mountain Village, Napaskiak, Platinum, Quinhagak, St. Marys, and Tuluksak.
Unit 18	Caribou	Residents of Unit 18, Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.
Unit 18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including, the Tuluksak River drainage.	Moose	Residents of Unit 18, Upper Kalskag, Aniak, and Chuathbaluk.
Unit 18, that portion north of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village, and all drainages north of the Yukon River downstream from Marshall.	Moose	Residents of Unit 18, St. Michael, Stebbins, and Upper Kalskag.
Unit 18, remainder	Moose	Residents of Unit 18 and Upper Kalskag.
Unit 18	Musk ox	No Federal subsistence priority.
Unit 18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 19C and Unit 19D	Bison	No Federal subsistence priority.
Unit 19A and Unit 19B	Brown Bear	Residents of Units 18 and 19 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
Unit 19C	Brown Bear	No Federal subsistence priority.
Unit 19D	Brown Bear	Residents of Units 19A and D, Tuluksak, and Lower Kalskag.
Unit 19A and Unit 19B	Caribou	Residents of Units 19A and 19B, Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, and Russian Mission.
Unit 19C	Caribou	Residents of Unit 19C, Lime Village, McGrath, Nikolai, and Telida.
Unit 19D	Caribou	Residents of Unit 19D, Lime Village, Sleetmute, and Stony River.
Unit 19A and Unit 9B	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and residents of Unit 19.
Unit 19B, west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
Unit 19C	Moose	Residents of Unit 19.
Unit 19D	Moose	Residents of Unit 19 and Lake Minchumina.
Unit 19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Bison	No Federal subsistence priority.
Unit 20F	Black Bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.

Area	Species	Determination
Unit 20E	Brown Bear	Residents of Unit 12 and Dot Lake.
Unit 20F	Brown Bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20A	Caribou	Residents of Cantwell, Nenana, and those domiciled between mileposts 216 and 239 of the Parks Highway, excluding residents of households of the Denali National Park Headquarters.
Unit 20B	Caribou	Residents of Unit 20B, Nenana, and Tanana.
Unit 20C	Caribou	Residents of Unit 20C living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Telida, and those domiciled between mileposts 216 and 239 of the Parks Highway and between mileposts 300 and 309, excluding residents of households of the Denali National Park Headquarters.
Unit 20D and Unit 20E	Caribou	Residents of Units 20D, 20E, and 12 north of the Wrangell-St. Elias National Park and Preserve.
Unit 20F	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 20A	Moose	Residents of Cantwell, Minto, Nenana, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20B, Minto Flats Management Area	Moose	Residents of Minto and Nenana.
Unit 20B, remainder	Moose	Residents of Unit 20B, Nenana, and Tanana.
Unit 20C	Moose	Residents of Unit 20C (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), Cantwell, Manley Hot Springs, Minto, Nenana, those domiciled between mileposts 300 and 309 of the Parks Highway, Nikolai, Tanana, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20D	Moose	Residents of Unit 20D and Tanacross.
Unit 20E	Moose	Residents of Unit 20E, Unit 12 north of the Wrangell-St. Elias National Preserve, Circle, Central, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 20F	Moose	Residents of Unit 20F, Manley Hot Springs, Minto, and Stevens Village.
Unit 20F	Wolf	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Grouse, (Spruce, Ruffed and Sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 20D	Ptarmigan (Rock and Willow).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 21	Brown Bear	Residents of Units 21 and 23.
Unit 21A	Caribou	Residents of Units 21A, 21D, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21B and Unit 21C	Caribou	Residents of Units 21B, 21C, 21D, and Tanana.
Unit 21D	Caribou	Residents of Units 21B, 21C, 21D, and Huslia.
Unit 21E	Caribou	Residents of Units 21A, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21A	Moose	Residents of Units 21A, 21E, Takotna, McGrath, Aniak, and Crooked Creek.
Unit 21B and Unit 21C	Moose	Residents of Units 21B, 21C, Tanana, Ruby, and Galena.
Unit 21D	Moose	Residents of Units 21D, Huslia, and Ruby.
Unit 21E, south of a line beginning at the western boundary of Unit 21E near the mouth of Paimiut Slough, extending easterly along the south bank of Paimiut Slough to Upper High Bank, and southeasterly in the direction of Molybdenum Mountain to the juncture of Units 19A, 21A, and 21E.	Moose	Residents of Unit 21E, Aniak, Chuathbaluk, Kalskag, Lower Kalskag, and Russian Mission.
Unit 21E remainder	Moose	Residents of Unit 21E and Russian Mission.
Unit 21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 22A	Black Bear	Residents of Unit 22A and Koyuk.
Unit 22B	Black Bear	Residents of Unit 22B.
Unit 22C, Unit 22D, and Unit 22E	Black Bear	No Federal subsistence priority.
Unit 22	Brown Bear	Residents of Unit 22.

Area	Species	Determination
Unit 22A	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, 24, Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
Unit 22, remainder	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (excluding residents of St. Lawrence Island), 23, and 24.
Unit 22	Moose	Residents of Unit 22.
Unit 22A	Musk ox	All rural residents.
Unit 22B, west of the Darby Mountains	Musk ox	Residents of Units 22B and 22C.
Unit 22B, remainder	Musk ox	Residents of Unit 22B.
Unit 22C	Musk ox	Residents of Unit 22C.
Unit 22D	Musk ox	Residents of Units 22B, 22C, 22D, and 22E (excluding St. Lawrence Island).
Unit 22E	Musk ox	Residents of Unit 22E (excluding Little Diomede Island).
Unit 22	Wolf	Residents of Units 23, 22, 21D north and west of the Yukon River, and Kotlik.
Unit 22	Grouse (Spruce)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 22	Ptarmigan (Rock and Willow).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
Unit 23	Brown Bear	Residents of Units 21 and 23.
Unit 23	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, Galena, 22, 23, 24 including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26A.
Unit 23	Moose	Residents of Unit 23.
Unit 23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Musk ox	Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.
Unit 23, remainder	Musk ox	Residents of Unit 23 east and north of the Buckland River drainage.
Unit 23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
Unit 23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 23	Grouse (Spruce and Ruffed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black Bear	Residents of Stevens Village, Unit 24, and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, remainder	Black Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown Bear	Residents of Stevens Village and Unit 24.
Unit 24, remainder	Brown Bear	Residents of Unit 24.
Unit 24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
Unit 24	Moose	Residents of Unit 24, Koyukuk, and Galena.
Unit 24	Sheep	Residents of Unit 24 residing north of the Arctic Circle, Allakaket, Alatna, Hughes, and Huslia.
Unit 24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 25D	Black Bear	Residents of Unit 25D.
Unit 25D	Brown Bear	Residents of Unit 25D.
Unit 25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
Unit 25A	Caribou	Residents of Units 24A and 25.
Unit 25B and Unit 25C	Caribou	Residents of Unit 25.
Unit 25D	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 25A	Moose	Residents of Units 25A and 25D.
Unit 25D, west	Moose	Residents of Unit 25D West.
Unit 25D, remainder	Moose	Residents of remainder of Unit 25.

Area	Species	Determination
Unit 25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
Unit 25B and Unit 25C	Sheep	No Federal subsistence priority.
Unit 25D	Wolf	Residents of Unit 25D.
Unit 25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (excluding the Prudhoe Bay–Deadhorse Industrial Complex), Anaktuvuk Pass, and Point Hope.
Unit 26A and C	Caribou	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Unit 24 within the Dalton Highway Corridor Management Area.
Unit 26	Moose	Residents of Unit 26 (excluding the Prudhoe Bay-Deadhorse Industrial Complex), Point Hope, and Anaktuvuk Pass.
Unit 26A	Musk ox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
Unit 26B	Musk ox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
Unit 26C	Musk ox	Residents of Kaktovik.
Unit 26A	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
Unit 26C	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkyitsik, Fort Yukon, Point Hope, and Venetie.
Unit 26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.

* * * * *

Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.25 is revised to read as follows:

§ ____.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) *Definitions.* The following definitions apply to all regulations contained in this part:

Abalone iron means a flat device which is used for taking abalone and which is more than 1 inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

ADF&G means the Alaska Department of Fish and Game.

Airborne means transported by aircraft.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration's Alaska Airman's Guide and chart supplement.

Anchor means a device used to hold a fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, elk, or moose.

Antlered means any caribou, deer, elk, or moose having at least one visible antler.

Antlerless means any caribou, deer, elk, or moose not having visible antlers attached to the skull.

Bait means any material excluding a scent lure that is placed to attract an animal by its sense of smell or taste; however, those parts of legally taken animals that are not required to be salvaged and which are left at the kill site are not considered bait.

Beach seine means a floating net which is designed to surround fish and is set from and hauled to the beach.

Bear means black bear, or brown or grizzly bear.

Big game means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, musk ox, Dall sheep, wolf, and wolverine.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow or any bow equipped with a mechanical device that holds arrows at full draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths of an inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, elk, or musk oxen.

Calf means a moose, caribou, elk, musk ox, or bison less than 12 months old.

Cast net means a circular net with a mesh size of no more than 1.5 inches and weights attached to the perimeter, which, when thrown, surrounds the fish and closes at the bottom when retrieved.

Char means the following species: Arctic char *(Salvelinus alpinis),* lake trout *(Salvelinus namaycush),* brook trout *(Salvelinus fontinalis),* and Dolly Varden *(Salvelinus malma).*

Closed season means the time when fish, wildlife, or shellfish may not be taken.

Crab means the following species: Red king crab *(Paralithodes camshatica),* blue king crab *(Paralithodes platypus),* brown king crab *(Lithodes aequispina),* scarlet king crab *(Lithodes couesi),* all species of tanner or snow crab *(Chionoecetes* spp.), and Dungeness crab *(Cancer magister).*

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Depth of net means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

Designated hunter or fisherman means a Federally qualified hunter or fisherman who may take all or a portion of another Federally qualified hunter's

or fisherman's harvest limit(s) only under situations approved by the Board.

Dip net means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed 5 feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving gear means any type of hard hat or skin diving equipment, including SCUBA equipment; a tethered, umbilical, surface-supplied unit; or snorkel.

Drainage means all of the lands and waters comprising a watershed, including tributary rivers, streams, sloughs, ponds, and lakes, which contribute to the water supply of the watershed.

Drawing permit means a permit issued to a limited number of Federally qualified subsistence users selected by means of a random drawing.

Drift gillnet means a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed in one place.

Edible meat means the breast meat of ptarmigan and grouse and those parts of caribou, deer, elk, mountain goat, moose, musk oxen, and Dall sheep that are typically used for human consumption, which are: The meat of the ribs, neck, brisket, front quarters as far as the distal (bottom) joint of the radius-ulna (knee), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, *edible meat* of species listed in this definition does not include: Meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera. For black bear, brown and grizzly bear, ''edible meat'' means the meat of the front quarter and hindquarters and meat along the backbone (backstrap).

Federally qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with the Federal Subsistence Management Regulations in this part.

Field means an area outside of established year-round dwellings, businesses, or other developments usually associated with a city, town, or village; *field* does not include permanent hotels or roadhouses on the State road system or at State or Federally maintained airports.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Fish wheel means a fixed, rotating device, with no more than four baskets on a single axle, for catching fish, which is driven by river current or other means.

Fresh water of streams and rivers means the line at which fresh water is separated from salt water at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf, or wolverine.

Fyke net means a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gillnet means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

Grappling hook means a hooked device with flukes or claws, which is attached to a line and operated by hand.

Groundfish or *bottomfish* means any marine fish except halibut, osmerids, herring, and salmonids.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, sooty grouse (formerly blue), and sharp-tailed grouse.

Hand purse seine means a floating net that is designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Handicraft means a finished product made by a rural Alaskan resident from the nonedible byproducts of fish or wildlife and is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural material must be substantially changed by the skillful use of hands, such as sewing, weaving, drilling, lacing, beading, carving, etching, scrimshawing, painting, or other means, and incorporated into a work of art, regalia, clothing, or other creative expression, and can be either traditional or contemporary in design. The handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone.

Handline means a hand-held and operated line, with one or more hooks attached.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person or designated group, per specified time period, in a Unit or portion of a Unit in which the taking occurs even if part or all of the harvest is preserved. A fish, when landed and killed by means of rod and reel, becomes part of the harvest limit of the person originally hooking it.

Herring pound means an enclosure used primarily to contain live herring over extended periods of time.

Highway means the drivable surface of any constructed road.

Household means that group of people residing in the same residence.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Hydraulic clam digger means a device using water or a combination of air and water used to harvest clams.

Jigging gear means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice, or from shore ice and which are drawn through the water by hand.

Lead means either a length of net employed for guiding fish into a seine, set gillnet, or other length of net, or a length of fencing employed for guiding fish into a fish wheel, fyke net, or dip net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district, or section.

Long line means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

Marmot collectively refers to all species of marmot that occur in Alaska, including the hoary marmot, Alaska marmot, and the woodchuck.

Mechanical clam digger means a mechanical device used or capable of being used for the taking of clams.

Mechanical jigging machine means a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

Mile means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

Motorized vehicle means a motor-driven land, air, or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance that is toxic or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Possession limit means the maximum number of fish, grouse, or ptarmigan a person or designated group may have in possession if they have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Purse seine means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ram means a male Dall sheep.

Registration permit means a permit that authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order requests are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Regulatory year means July 1–June 30, except for fish and shellfish, for which it means April 1–March 31.

Ring net means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

Rockfish means all species of the genus *Sebastes.*

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole. In either case, bait or an artificial fly or lure is used as terminal tackle. This definition does not include the use of rod and reel gear for snagging.

Salmon means the following species: pink salmon *(Oncorhynchus gorbuscha);* sockeye salmon *(Oncorhynchus nerka);* Chinook salmon *(Oncorhynchus tshawytscha);* coho salmon *(Oncorhynchus kisutch);* and chum salmon *(Oncorhynchus keta).*

Salmon stream means any stream used by salmon for spawning, rearing, or for traveling to a spawning or rearing area.

Salvage means to transport the edible meat, skull, or hide, as required by regulation, of a regulated fish, wildlife, or shellfish to the location where the edible meat will be consumed by humans or processed for human consumption in a manner that saves or prevents the edible meat from waste, and preserves the skull or hide for human use.

Scallop dredge means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

Sea urchin rake means a hand-held implement, no longer than 4 feet, equipped with projecting prongs used to gather sea urchins.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing, or surrendering a specific portion of the animal for biological information.

Set gillnet means a gillnet that has been intentionally set, staked, anchored, or otherwise fixed.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eighths (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Shovel means a hand-operated implement for digging clams.

Skin, hide, pelt, or fur means any tanned or untanned external covering of an animal's body. However, for bear, the skin, hide, pelt, or fur means the external covering with claws attached.

Snagging means hooking or attempting to hook a fish elsewhere than in the mouth.

Spear means a shaft with a sharp point or fork-like implement attached to one end, which is used to thrust through the water to impale or retrieve fish, and which is operated by hand.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Stretched measure means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, must be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements will be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under 5-pound weight.

Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

Take or *Taking* means to fish, pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler, the length of which is greater than its width and is at least 1 inch.

To operate fishing gear means any of the following: To deploy gear in the water; to remove gear from the water; to remove fish or shellfish from the gear during an open season or period; or to possess a gillnet containing fish during an open fishing period, except that a gillnet that is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Transportation means to ship, convey, carry, or transport by any means whatever and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within established trapping

seasons and with a required trapping license.

Trawl means a bag-shaped net towed through the water to capture fish or shellfish, and includes beam, otter, or pelagic trawl.

Troll gear means a power gurdy troll gear consisting of a line or lines with lures or baited hooks that are drawn through the water by a power gurdy; hand troll gear consisting of a line or lines with lures or baited hooks that are drawn through the water from a vessel by hand trolling, strip fishing, or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical, or other assisting device or attachment; or dinglebar troll gear consisting of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

Trophy means a mount of a big game animal, including the skin of the head (cape) or the entire skin, in a lifelike representation of the animal, including a lifelike representation made from any part of a big game animal; ''trophy'' also includes a ''European mount'' in which the horns or antlers and the skull or a portion of the skull are mounted for display.

Trout means the following species: Cutthroat trout *(Oncorhynchus clarki)* and rainbow/steelhead trout *(Oncorhynchus mykiss).*

Unclassified wildlife or unclassified species means all species of animals not otherwise classified by the definitions in this paragraph (a), or regulated under other Federal law as listed in paragraph (i) of this section.

Ungulate means any species of hoofed mammal, including deer, caribou, elk, moose, mountain goat, Dall sheep, and musk ox.

Unit and *Subunit* means one of the geographical areas in the State of Alaska known as Game Management Units, or GMUs, as defined in the codified Alaska Department of Fish and Game regulations found in Title 5 of the Alaska Administrative Code and collectively listed in this part as Units or Subunits.

Wildlife means any hare, ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Taking fish, wildlife, or shellfish for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting, trapping, or fishing during a closed season or in an area closed by this part is prohibited. You may not take for subsistence fish, wildlife, or shellfish outside established Unit or Area seasons, or in excess of the established Unit or Area harvest limits, unless otherwise provided for by the Board. You may take fish, wildlife, or shellfish under State regulations on public lands, except as otherwise restricted at §§ ____.26 through ____.28. Unit/Area-specific restrictions or allowances for subsistence taking of fish, wildlife, or shellfish are identified at §§ ____.26 through ____.28.

(c) *Harvest limits.*

(1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated unless specified otherwise in §§ ____.26, ____.27. or ____.28.

(2) Fish, wildlife, or shellfish taken by a designated individual for another person pursuant to § ____.10(d)(5)(ii) counts toward the individual harvest limit of the person for whom the fish, wildlife, or shellfish is taken.

(3) A harvest limit may apply to the number of fish, wildlife, or shellfish that can be taken daily, seasonally and/or during a regulatory year or held in possession.

(4) Unless otherwise provided, any person who gives or receives fish, wildlife, or shellfish must furnish, upon a request made by a Federal or State agent, a signed statement describing the following: Names and addresses of persons who gave and received fish, wildlife, or shellfish; the time and place that the fish, wildlife, or shellfish was taken; and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take fish, wildlife, or shellfish on his or her behalf in accordance with § ____.10(d)(5)(ii), the permit must be furnished in place of a signed statement.

(d) *Fishing by designated harvest permit.*

(1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally qualified subsistence user, you (beneficiary) may designate another Federally qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated fishing permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) *Hunting by designated harvest permit.* If you are a Federally qualified subsistence user (recipient), you may designate another Federally qualified subsistence user to take deer, moose, and caribou, and in Units 1–5, goats, on your behalf unless you are a member of a community operating under a community harvest system or unless unit-specific regulations in § ____.26 preclude or modify the use of the designated hunter system or allow the harvest of additional species by a designated hunter. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time except for goats, where designated hunters may have no more than one harvest limit in possession at any one time, and unless otherwise specified in unit-specific regulations in § ____.26.

(f) A rural Alaska resident who has been designated to take fish, wildlife, or shellfish on behalf of another rural Alaska resident in accordance with § ____.10(d)(5)(ii) must promptly deliver the fish, wildlife, or shellfish to that rural Alaska resident and may not charge the recipient for his/her services in taking the fish, wildlife, or shellfish or claim for themselves the meat or any part of the harvested fish, wildlife, or shellfish.

(g) *Cultural/educational program permits.*

(1) A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Federal Subsistence Board through the Office of Subsistence Management and should be submitted 60 days prior to the earliest desired date of harvest. Harvest must be reported, and any animals harvested will count against any established Federal harvest quota for the area in which it is harvested.

(2) Requests for followup permits must be submitted to the in-season or local manager and should be submitted

60 days prior to the earliest desired date of harvest.

(h) *Permits.* If a subsistence fishing or hunting permit is required by this part, the following permit conditions apply unless otherwise specified in this section:

(1) You may not take more fish, wildlife, or shellfish for subsistence use than the limits set out in the permit;

(2) You must obtain the permit prior to fishing or hunting;

(3) You must have the permit in your possession and readily available for inspection while fishing, hunting, or transporting subsistence-taken fish, wildlife, or shellfish;

(4) If specified on the permit, you must keep accurate daily records of the harvest, showing the number of fish, wildlife, or shellfish taken, by species, location, and date of harvest, and other such information as may be required for management or conservation purposes; and

(5) If the return of harvest information necessary for management and conservation purposes is required by a permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following regulatory year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(i) You may not possess, transport, give, receive, or barter fish, wildlife, or shellfish that was taken in violation of Federal or State statutes or a regulation promulgated hereunder.

(j) *Utilization of fish, wildlife, or shellfish.*

(1) You may not use wildlife as food for a dog or furbearer, or as bait, except as allowed for in § ____.26, § ____.27, or § ____.28, or except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse, or ptarmigan; however, you may not use the breast meat of grouse and ptarmigan as animal food or bait;

(iv) Unclassified wildlife.

(2) If you take wildlife for subsistence, you must salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel, or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in Units 5, 9B, 17, 18, portions of 19A and 19B, 21D, 22, 23, 24, and 26A need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares, marmots, beaver, muskrats, or unclassified wildlife.

(3) You must salvage the edible meat of ungulates, bear, grouse, and ptarmigan.

(4) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes whitefish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally taken subsistence fish.

(5) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested fish, wildlife, or shellfish, unanticipated weather conditions, or unavoidable loss to another animal.

(6) If you are a Federally qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a black bear.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a black bear taken from Units 1, 2, 3, or 5.

(ii) [Reserved].

(7) If you are a Federally qualified subsistence user, you may sell handicraft articles made from the skin, hide, pelt, or fur, including claws, of a brown bear taken from Units 1–5, 9A–C, 9E, 12, 17, 20, 22, 23, 24B (only that portion within Gates of the Arctic National Park), 25, or 26.

(i) In Units 1, 2, 3, 4, and 5, you may sell handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew, or skulls of a brown bear taken from Units 1, 4, or 5.

(ii) Prior to selling a handicraft incorporating a brown bear claw(s), the hide or claw(s) not attached to a hide must be sealed by an authorized Alaska Department of Fish and Game representative. Old claws may be sealed if an affidavit is signed indicating that the claws came from a brown bear harvested on Federal public lands by a Federally qualified user. A copy of the Alaska Department of Fish and Game sealing certificate must accompany the handicraft when sold.

(8) If you are a Federally qualified subsistence user, you may sell the raw fur or tanned pelt with or without claws attached from legally harvested furbearers.

(9) If you are a Federally qualified subsistence user, you may sell handicraft articles made from the nonedible byproducts (including, but not limited to, skin, shell, fins, and bones) of subsistence-harvested fish or shellfish.

(10) If you are a Federally qualified subsistence user, you may sell handicraft articles made from nonedible byproducts of wildlife harvested for subsistence uses (excluding bear), to include: Skin, hide, pelt, fur, claws, bones (except skulls of moose, caribou, elk, deer, sheep, goat, and musk ox), teeth, sinew, antlers and/or horns (if not attached to any part of the skull or made to represent a big game trophy) and hooves.

(11) The sale of handicrafts made from the nonedible byproducts of wildlife, when authorized in this part, may not constitute a significant commercial enterprise.

(12) You may sell the horns and antlers not attached to any part of the skull from legally harvested caribou (except caribou harvested in Unit 23), deer, elk, goat, moose, musk ox, and sheep.

(13) You may sell the raw/untanned and tanned hide or cape from a legally harvested caribou, deer, elk, goat, moose, musk ox, and sheep.

(k) The regulations found in this part do not apply to the subsistence taking and use of fish, wildlife, or shellfish regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 1091, 16 U.S.C. 1187); the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543); the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407); and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or to any amendments to these Acts. The taking and use of fish, wildlife, or shellfish, covered by these Acts will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(l) Rural residents, nonrural residents, and nonresidents not specifically prohibited by Federal regulations from fishing, hunting, or trapping on public lands in an area may fish, hunt, or trap on public lands in accordance with the appropriate State regulations.

■ 4. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.26 is revised to read as follows:

§ ____.26 Subsistence taking of wildlife.

(a) You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(b) Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway.

(2) Using any poison.

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation.

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge.

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle, or pistol using center-firing cartridges for the taking of ungulates, bear, wolves, or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine; and

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk ox, and mountain goat.

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over 9 inches, or conibear style trap with a jaw spread over 11 inches.

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and individuals in possession of a valid trapping license may use snares to take furbearers.

(10) Using a trap to take ungulates or bear.

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag.

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only.

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting an inch-wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least 1 ounce (437.5 grains).

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except you may use bait to take wolves and wolverine with a trapping license, and you may use bait to take black bears with a hunting license as authorized in Unit-specific regulations at paragraphs (n)(1) through (26) of this section. Baiting of black bears is subject to the following restrictions:

(i) Before establishing a black bear bait station, you must register the site with ADF&G;

(ii) When using bait, you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G-assigned number;

(iii) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(iv) You may not use bait within ¼ mile of a publicly maintained road or trail;

(v) You may not use bait within 1 mile of a house or other permanent dwelling, or within 1 mile of a developed campground or developed recreational facility;

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods; and

(viii) You may not have more than two bait stations with bait present at any one time;

(15) Taking swimming ungulates, bears, wolves, or wolverine.

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3:00 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however, this restriction does not apply to subsistence taking of deer, the setting of snares or traps, or the removal of furbearers from traps or snares.

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) The following methods and means of trapping furbearers for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than 5⅞ inches during any closed mink and marten season in the same Unit;

(5) Using a net or fish trap (except a blackfish or fyke trap); and

(6) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.*

(1) Except as specified in paragraphs (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any unit, or portion of a unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____.10(d)(5)(iii) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.*

(1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of ''one brown/grizzly bear per year'' counts against a ''one brown/grizzly bear every four regulatory years'' harvest limit in other Units. You may not take more than one brown/grizzly bear in a regulatory year.

(g) *Evidence of sex and identity.*

(1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except that in Units 1–5 antlers are also considered proof of sex for deer if the antlers are naturally attached to an entire carcass, with or without the viscera; and except in Units 11, 13, 19, 21, and 24, where you may possess either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached) to indicate the sex of the harvested moose; however, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) *Removing harvest from the field.* You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9, 17, 18, and 19B prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 25 until you remove the meat from the field or process it for human consumption.

(i) *Returning of tags, marks, or collars.* If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.*

(1) Sealing requirements for bear apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision does not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, 21D, 22, 23, 24, and 26A and which are not removed from the Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear that does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in Units 9B, 17, 18, and 19A and 19B downstream of and including the Aniak River drainage is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative must remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in Units 21D, 22, 23, 24, and 26A from the area or present it for commercial tanning within the area, you must first have it sealed by an ADF&G representative in Barrow, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative must remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat.

(v) If you remove the skin or skull of a bear taken in Unit 9E from Unit 9, you must first have it sealed by an authorized sealing representative. At the time of sealing, the representative must remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Units 1–5, 7, 13E, or 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative in accordance with State or Federal regulations.

(1) In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially tanned.

(2) In Unit 2, you must seal any wolf taken on or before the 14th day after the date of taking.

(l) If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, which are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of

harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the unit-specific regulations in paragraph (n) of this section.

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a Federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1–26 (except for Koyukon/Gwich'in potlatch ceremonies in Units 20F, 21, 24, or 25):

(i) A tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious/cultural ceremony will be held, or a Federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user must create a list of the successful hunters and maintain these records, including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village or tribal council president or designee, or other Federally qualified subsistence user outside of the village in which the religious/cultural ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20F, 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound.

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage.

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay.

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay.

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1B—the Anan Creek drainage within 1 mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a 1-mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of bear;

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier.

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must

use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1A—4 antlered deer	Aug. 1–Dec. 31.
Unit 1B—2 antlered deer	Aug. 1–Dec. 31.
Unit 1C—4 deer; however, female deer may be taken only from Sept. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1A—Revillagigedo Island only	No open season.
Unit 1B—that portion north of LeConte Bay—1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and Unit 1B—that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet.	No open season.
Unit 1A and Unit 1B—remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1C—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C—remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1D—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D—remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A—1 antlered bull by Federal registration permit	Sept. 5–Oct. 15.
Unit 1B—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sept. 15–Oct. 15.
Unit 1C—remainder, excluding drainages of Berners Bay—1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1C, Berners Bay	No open season.
Unit 1D	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day.	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 1—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

(ii) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
5 deer; however, no more than one may be a female deer. Female deer may be taken only during the period Oct. 15–Dec. 31. The harvest limit may be reduced to 4 deer based on conservation concerns. The Federal public lands on Prince of Wales Island, excluding the southeastern portion (lands south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait), are closed to hunting of deer from Aug. 1 to Aug. 15, except by Federally qualified subsistence users hunting under these regulations.	July 24–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Sept. 1–Mar. 31.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1 –Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Wolf:	
No limit. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Nov. 15–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(3) *Unit 3.*

(i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevaroff, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers 1 mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–31.
Unit 3—remainder—2 antlered deer	Aug. 1–Nov. 30. Dec. 1–31, season to be announced.
Moose:	
1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.	Sept. 15–Oct. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
Unit 3—except Kuiu Island—No limit	Dec. 1–Feb. 15.

Harvest limits	Open season
Unit 3—Kuiu Island.	No open season (season to reopen to Federally qualified users on July 1, 2012).
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(4) *Unit 4.*

(i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwestern point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(B) Five Federal registration permits will be issued by the Sitka or Hoonah District Ranger for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

Harvest limits	Open season
Hunting	
Brown Bear:	
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136°21′ W. long.) to Rodgers Point (57°35′ N. lat., 135°33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57°34′ N. lat., 135°25′ W. long.) to the entrance of Gut Bay (56°44′ N. lat. 134°38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sept. 15–Dec. 31. Mar. 15–May 31.
Unit 4—remainder—1 bear every 4 regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer:	
6 deer; however, female deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	

Harvest limits	Open season
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 4—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(5) *Unit 5.*

(i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag if you have obtained a Federal registration permit prior to hunting.

(D) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(E) Trappers are prohibited from using a trap or snare unless the trap or snare has been individually marked with a permanent metal tag upon which is stamped or permanently etched the trapper's name and address, or the trapper's permanent identification number, or is set within 50 yards of a sign that lists the trapper's name and address, or the trapper's permanent identification number. The trapper must use the trapper's Alaska driver's license number or State identification card number as the required permanent identification number. If a trapper chooses to place a sign at a snaring site rather than tagging individual snares, the sign must be at least 3 inches by 5 inches in size, be clearly visible, and have numbers and letters that are at least one-half inch high and one-eighth inch wide in a color that contrasts with the color of the sign.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5A–1 buck	Nov. 1–Nov. 30.
Unit 5B	No open season.
Goat:	
Unit 5A —that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord.	No open season.
Unit 5A remainder—1 goat by Federal registration permit. The harvest quota will be announced prior to the season. A minimum of four goats in the harvest quota will be reserved for Federally qualified subsistence users.	Aug. 1–Jan. 31.
Unit 5B—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A, Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15

Harvest limits	Open season
Unit 5A, except Nunatak Bench—1 bull by joint State/Federal registration permit only. From Oct. 8–21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5B—1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5B.	Sept. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Nov. 10–May 15.
Coyote:	
No limit	Nov. 10–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov 10–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Nov. 10–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Nov. 10–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Mar. 1.

(6) *Unit 6.*

(i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6D consists of the remainder of Unit 6.

(ii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights.

(C) One permit will be issued by the Cordova District Ranger to the Native Village of Eyak to take one moose from Federal lands in Units 6B or C for their annual Memorial/Sobriety Day potlatch.

(D) A Federally qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another Federally qualified subsistence user to take any moose, deer, black bear, and beaver on his or her behalf in Unit 6, and goat in Unit 6D, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but may have no more than one harvest limit in his or her possession at any one time.

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine.

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

(G) Up to five permits will be issued by the Cordova District Ranger to the Native Village of Chenega annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Old Chenega Memorial. Permits

will have effective dates of July 1–June 30.

(H) Up to five permits will be issued by the Cordova District Ranger to the Tatitlek IRA Council annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Cultural Heritage Week. Permits will have effective dates of July 1–June 30.

Harvest limits	Open season
Hunting	
Black Bear:	
1 bear	Sept. 1–June 30.
Deer:	
4 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.
Unit 6D (subareas RG242, RG243, RG244, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed by the Cordova District Ranger when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Jan. 31.
Moose:	
Unit 6C–1 antlerless moose by Federal registration permit only	Sept. 1–Oct. 31.
Unit 6C–1 bull by Federal registration permit only	Sept. 1–Dec. 31.
(In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit for Unit 6C moose may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the antlerless moose permits and 75% of the bull permits.)	
Unit 6—remainder	No open season.
Beaver:	
1 beaver per day, 1 in possession	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sept. 1–Apr. 30
Unit 6B and 6C—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C—south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–April. 30.
Units 6A, 6B, 6C remainder, and 6D—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(7) *Unit 7.*

(i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park.

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(C) You may not hunt moose in the Resurrection Creek Closed Area in Unit 7, which consists of the drainages of Resurrection Creek downstream from Rimrock and Highland Creeks including Palmer Creek.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15, except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 7—north of the Sterling Highway and west of the Seward Highway—1 caribou by Federal registration permit only. The Seward District Ranger will close the Federal season when 5 caribou are harvested by Federal registration permit.	Aug. 10–Dec. 31
Unit 7, remainder	No open season.
Moose:	
Unit 7—that portion draining into Kings Bay—Public lands are closed to the taking of moose by all users	No open season.
Unit 7, remainder—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
Beaver:	
1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote:	
No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	No open season.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10– Apr. 30.
Unit 7, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed):	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
20 beaver per season	Nov. 10–Mar. 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Jan. 1–Jan. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

(ii) [Reserved].

Harvest limits	Open season
Hunting	
Brown Bear:	
1 bear by Federal registration permit only. Up to 1 permit may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 2 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions. Permits will be issued by the Kodiak Refuge Manager.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer:	
Unit 8—all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk:	
Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sept. 15–Nov. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Jan. 31.

(9) *Unit 9.*

(i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve.

(B) Unit 9B consists of the Kvichak River drainage except those lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage.

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage, and all land and water within Katmai National Park and Preserve.

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands.

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1–May 31 and in the remainder of Unit 9 from April 1–30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and that portion of the park resident zone in Unit 9B and 13.440 permit holders may hunt brown bear by Federal registration permit in lieu of a resident tag. Ten permits will be available with at least one permit issued in each community; however, no more than five permits will be issued in a single community. The season will be closed when four females or ten bears have been taken, whichever occurs first. The permits will be issued and closure announcements made by the Superintendent Lake Clark National Park and Preserve.

(D) Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1–June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State.

(E) For Units 9C and 9E only, a Federally qualified subsistence user

(recipient) of Units 9C and 9E may designate another Federally qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time.

(F) For Unit 9D, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 9B—Lake Clark National Park and Preserve—Rural residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, residents of that portion of the park resident zone in Unit 9B; and 13.440 permit holders—1 bear by Federal registration permit only.	July 1–June 30.
The season will be closed by the Lake Clark National Park and Preserve Superintendent when four females or ten bear have been taken, whichever occurs first.	
Unit 9B, remainder—1 bear by State registration permit only	Sept. 1–May 31.
Unit 9C—1 bear by Federal registration permit only	Oct. 1–May 31.
The season will be closed by the Katmai National Park and Preserve Superintendent in consultation with BLM and FWS land managers and ADF&G, when six females or ten bear have been taken, whichever occurs first.	
Unit 9E—1 bear by Federal registration permit	Sept. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—2 caribou; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 9B—2 caribou; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 9C, that portion within the Alagnak River drainage—2 caribou; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 9C, remainder—Federal public lands are closed to the taking of caribou	No open season.
Unit 9D—1 bull caribou by Federal registration permit only. Quotas and any needed closures will be announced by the Izembek Refuge Manager after consultation with ADF&G.	Aug. 10–Sept 20. Nov. 15–Mar. 31.
Unit 9E—Federal public lands are closed to the taking of caribou	No open season.
Sheep:	
Unit 9B, that portion within Lake Clark National Park and Preserve—1 ram with ¾ curl or larger horn by Federal registration permit only. By announcement of the Lake Clark National Park and Preserve Superintendent, the summer/fall season will be closed when up to 5 sheep are taken and the winter season will be closed when up to 2 sheep are taken.	July 15–Oct. 15. Jan. 1–Apr. 1.
Unit 9B—remainder—1 ram with 7/8 curl or larger horn by Federal registration permit only	Aug. 10–Oct. 10.
Unit 9—remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 9A—1 bull by State registration permit	Sept. 1–15.
Unit 9B—1 bull by State registration permit	Sept. 1–20. Dec. 1–Jan. 15.
Unit 9C—that portion draining into the Naknek River from the north—1 bull by State registration permit	Sept. 1–20. Dec. 1–31.
Unit 9C—that portion draining into the Naknek River from the south—1 bull. A State registration permit is required during the Aug. 20–Sept. 20 season; a Federal registration permit is required during the Dec. 1–31 season. Public lands are closed during December for the hunting of moose, except by Federally qualified subsistence users hunting under these regulations.	Aug. 20–Sept. 20. Dec. 1–31.
Unit 9C—remainder—1 bull by State registration permit	Sept. 1–20. Dec. 15 –Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed by announcement of the Izembek Refuge Manager to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull by State registration permit, however only antlered bulls may be taken Dec. 1–Jan. 31	Sept. 1–25. Dec. 1–Jan. 31.
Beaver:	
Unit 9B and 9E—2 beaver per day	Apr. 15–May 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.

Harvest limits	Open season
Fox, Arctic (Blue and White):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
5 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used	Apr. 15–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(10) *Unit 10.*

(i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10—Unimak Island only	No open season.
Unit 10, remainder—No limit	July 1–June 30.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.

Harvest limits	Open season
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):.	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:.	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear	Aug. 10–June 15.
Caribou	No open season.
Sheep:	
1 sheep.	
1 sheep by Federal registration permit only by persons 60 years of age or older. Ewes accompanied by lambs or lambs may not be taken.	Aug. 1–Oct. 20.
Goat:	
Unit 11—that portion within the Wrangell–St. Elias National Park and Preserve that is bounded by the Chitina and Nizina rivers on the south, the Kennicott River and glacier on the southeast, and the Root Glacier on the east—1 goat by Federal registration permit only.	Aug. 25–Dec. 31.
Unit 11—the remainder of the Wrangell–St. Elias National Park and Preserve—1 goat by Federal registration permit only.	Aug. 10–Dec. 31.
Unit 11—that portion outside of the Wrangell-St. Elias National Park and Preserve	No open season.
Federal public lands will be closed by announcement of the Superintendent, Wrangell–St. Elias National Park and Preserve to the harvest of goats when a total of 45 goats has been harvested between Federal and State hunts.	
Moose:	
Unit 11—that portion draining into the east bank of the Copper River upstream from and including the Slana River drainage—1 antlered bull by joint Federal/State registration permit.	Aug 20–Sept. 20.
Unit 11 remainder—1 antlered bull by Federal registration permit only	Aug 20–Sept. 20.
Muskrat:	
No limit	Sept. 20–June 10.
Beaver:	
1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	

Harvest limits	Open season
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Sept. 25–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap, or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 12 during April and October.

(C) One moose without calf may be taken from June 20–July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be Federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear	Aug. 10–June 30.
Caribou:	
Unit 12—that portion within the Wrangell–St. Elias National Park that lies west of the Nabesna River and the Nabesna Glacier. All hunting of caribou is prohibited on Federal public lands.	No open season. Sept. 1–30.
Unit 12, that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 bull by Federal registration permit only.	Sept. 1–30.
Federal public lands are closed to the harvest of caribou except by residents of Chisana, Chistochina, Mentasta, Northway, Tetlin, and Tok.	
Unit 12—remainder—1 bull	Sept. 1–20.

Harvest limits	Open season
Unit 12—remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell–St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
Unit 12—1 ram with full curl or larger horn	Aug. 10–Sept. 20.
Unit 12—that portion within Wrangell–St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Aug. 1–Oct. 20.
Moose:	
Unit 12—that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell–St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake—1 antlered bull by Federal registration permit.	Aug. 24–Sept. 20. Nov. 1–Feb. 28.
Unit 12—that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sept. 30.
Unit 12—remainder—1 antlered bull by joint Federal/State registration permit only	Aug. 20–Sept. 20.
Beaver:	
Unit 12—Wrangell–Saint Elias National Park and Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Mar. 15.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
15 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 15, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption.	Sept. 20–May 15.
Coyote:	
No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30	Nov. 1–Dec. 31.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Sept. 20–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(13) *Unit 13.*

(i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeastern corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and

Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the south bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning.

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning.

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier.

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13A.

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River.

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Middle Fork trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13B bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26–September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10–Sept. 30 or Oct. 21–Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1–Sept. 20. The animals may be taken by any Federally qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

(C) Upon written request from the Ahtna Heritage Foundation to the Glennallen Field Office, either 1 bull moose or 2 caribou, sex to be determined by the Glennallen Field Office Manager of the Bureau of Land Management, may be taken from Aug 1–Sept. 20 for 1 moose or Aug. 10–Sept. 20 for 2 caribou by Federal registration permit for the Ahtna Heritage Foundation's culture camp. The permit will expire on September 20 or when the camp closes, whichever comes first. No combination of caribou and moose is allowed. The animals may be taken by any Federally qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	

Harvest limits	Open season
1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Unit 13A and 13B—2 caribou by Federal registration permit only. The sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	Aug. 1–Sept. 30. Oct. 21–Mar. 31.
Unit 13—remainder—2 bulls by Federal registration permit only.	Aug. 1–Sept. 30. Oct. 21–Mar. 31.
You may not hunt within the Trans-Alaska Oil Pipeline right-of-way. The right-of-way is the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline.	
Sheep:	
Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with 7/8 curl or larger horn.	Aug. 10–Sept. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household.	Aug. 1–Sept. 20.
Unit 13–remainder—1 antlered bull moose by Federal registration permit only.	Aug. 1–Sept. 20.
Beaver:	
1 beaver per day, 1 in possession	June 15–Sept. 10.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Jan. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Sept. 25–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit.	Sept. 25–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Oct. 15–Apr. 30.
Wolverine:	
No limit	Nov. 10–Jan. 31.

(14) *Unit 14.*

(i) Unit 14 consists of drainages into the northern side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the northern side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the western side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank

of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the northern side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A;

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservations;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 14C—1 bear	Jul. 1–Jun. 30.
Beaver:	
Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote:	
Unit 14C—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe):	
Unit 14C—5 hares per day	Sept. 8–Apr. 30.
Lynx:	
Unit 14C—2 lynx	Dec. 1–Jan. 31.
Wolf:	
Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
Unit 14C—1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
Unit 14C—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 14C—10 per day, 20 in possession	Sept. 8–Mar. 31.
Trapping	
Beaver:	
Unit 14C—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx:	
Unit 14C—No limit	Dec. 15–Jan. 31.
Marten:	
Unit 14C—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat:	
Unit 14C—No limit	Nov. 10–May 15.
Otter:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Wolf:	
Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine:	
Unit 14C—2 wolverines	Nov. 10–Jan. 31.

(15) *Unit 15.*

(i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the northern shore of Skilak Lake;

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the northern shore of Skilak Lake, and north of the north bank of the Kasilof River, the northern shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15C consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1 through March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the

Kenai River to its confluence with Skilak Lake, then westerly along the northern shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 15A and 15B—2 bears by Federal registration permit	Jul. 1–Jun. 30.
Unit 15C—3 bears	Jul. 1–Jun. 30.
Brown Bear:	
Unit 15—1 bear every 4 regulatory years by Federal registration permit. The season may be opened or closed by announcement from the Kenai National Wildlife Refuge Manager after consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Sept. 1–Nov. 30, to be announced and Apr. 1–Jun. 15, to be announced.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Unit 15A—remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
Units 15B and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only. The Kenai NWR Refuge Manager is authorized to close the October/November season based on conservation concerns, in consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Oct. 20–Nov. 10.
Coyote:	
No limit	Sept. 1–Apr. 30.
Hare (Snowshoe):	
No limit	July 1–Jun. 30.
Lynx:	
2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 15—remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15C—20 per day, 40 in possession	Aug. 10– Dec. 31.
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver:	
20 beaver per season	Nov. 10–Mar. 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
1 Fox	Nov. 10–Feb. 28.
Lynx:	
No limit	Jan. 1–Jan. 31.
Marten:	
Unit 15B—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
Unit 15—No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.*

(i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the western side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the western side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages

into the southern side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved].

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull	Sept. 1–15.
Unit 16B—Denali National Preserve only—1 bull by Federal registration permit. One Federal registration permit for moose issued per household.	Sept. 1–30. Dec. 1–Feb. 28.
Unit 16B, remainder—1 bull	Sept. 1–30. Dec. 1–Feb. 28.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe):	
No limit	July 1–Jun. 30.
Lynx:	
2 lynx	Dec. 1–Jan. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver:	
No limit	Oct. 10–May 15.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 15–Jan. 31.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–Jun. 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(17) *Unit 17.*

(i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bears, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1–Nov. 1.

(B) [Reserved].

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15–May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear:	
2 bears	Aug. 1–May 31.
Brown Bear:	
Unit 17—1 bear by State registration permit only	Sept. 1–May 31.
Caribou:	
Unit 17A—all drainages west of Right Hand Point—2 caribou; no more than 1 caribou may be a bull, and no more than 1 caribou may be taken Aug. 1–Jan. 31. The season may be closed and harvest limit reduced for the drainages between the Togiak River and Right Hand Point by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Mar. 15.
Units 17A and 17C—that portion of 17A and 17C consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 2 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk hunting under these regulations. The harvest quota, harvest limit, and the number of permits available will be announced by the Togiak National Wildlife Refuge Manager after consultation with the Alaska Department of Fish and Game and the Nushagak Peninsula Caribou Planning Committee. Successful hunters must report their harvest to the Togiak National Wildlife Refuge within 24 hours after returning from the field. The season may be closed by announcement of the Togiak National Wildlife Refuge Manager.	Aug. 1–Sept. 30. Dec. 1–Mar. 31.
Units 17A remainder and 17C remainder—selected drainages; a harvest limit of up to 2 caribou will be determined at the time the season is announced. Season, harvest limit, and hunt area to be announced by the Togiak National Wildlife Refuge Manager.	Season to occur sometime within Aug. 1–Mar. 31.
Units 17B and 17C—that portion of 17C east of the Wood River and Wood River Lakes—2 caribou; no more than 1 caribou may be a bull, and no more than 1 caribou from Aug. 1–Jan 31.	Aug. 1–Mar. 15.
Sheep:	
1 ram with full curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 17A—1 bull by State registration permit	Aug. 25–Sept. 20.
Unit 17A—1 antlered bull by State registration permit. Up to a 14-day season during the period Dec. 1–Jan. 31 may be opened or closed by the Togiak National Wildlife Refuge Manager after consultation with ADF&G and the Chair of the Bristol Bay Regional Advisory Council.	Winter season to be announced.
Units 17B and 17C—one bull	Aug. 20–Sept. 15.
During the period Aug. 20–Sept. 15—one bull by State registration permit; or	Dec. 1–31.
During the period Sept. 1–15—one bull with spike-fork or 50-inch antlers or antlers with three or more brow tines on at least one side with a State harvest ticket; or.	
During the period Dec. 1–31—one antlered bull by State registration permit.	
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 17—No limit	Oct. 10–Mar. 31.
Unit 17—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Feb. 28.

Harvest limits	Open season
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
2 muskrats	Nov. 10–Feb. 28.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(18) *Unit 18.*

(i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from Apr. 1 through Jun. 10.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) You may take caribou from a boat moving under power in Unit 18.

(D) You may take moose from a boat moving under power in that portion of Unit 18 west of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60°59.41′ Latitude; W 162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank west to the Unit 18 border.

(E) Taking of wildlife in Unit 18 while in possession of lead shot size T, .20 calibre or less in diameter, is prohibited.

(F) You may not pursue with a motorized vehicle an ungulate that is at or near a full gallop.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear by State registration permit only	Sept. 1–May 31.
Caribou:	
Unit 18—that portion to the east and south of the Kuskokwim River—2 caribou; no more than 1 caribou may be a bull; no more than 1 caribou may be taken Aug. 1–Sept. 30 and Dec. 20—Jan. 31.	Aug. 1–Sept. 30. Dec. 20–the last day of Feb.
Unit 18 remainder—2 caribou; no more than 1 caribou may be a bull; no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Moose:	
Unit 18—that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60° 59.41′ Latitude; W162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank east of the Unit 18 border and then north of and including the Eek River drainage. Federal public lands are closed to the taking of moose except by residents of Tuntutuliak, Eek, Napakiak, Napaskiak, Kasigluk, Nunapitchuk, Atmautlauk, Oscarville, Bethel, Kwethluk, Akiachak, Akiak, Tuluksak, Lower Kalskag, and Kalskag.	No open season.
Unit 18—south of and including the Kanektok River drainages to the Goodnews River drainage. Federal public lands are closed to the taking of moose by all users.	No open season.
Unit 18—Goodnews River drainage and south to the Unit 18 boundary—1 antlered bull by State registration permit. Any needed closures will be announced by the Togiak National Wildlife Refuge Manager after consultation with BLM, ADF&G, and the Chair of the Yukon–Kuskokwim Delta Subsistence Regional Advisory Council.	Sept. 1–30.
Unit 18—That portion north and west of the Kashunuk River including the north bank from the mouth of the river upstream to the old village of Chakaktolik, west of a line from Chakaktolik to Mountain Village and excluding all Yukon River drainages upriver from Mountain Village—2 moose, only one of which may be antlered. Antlered bulls may only be harvested from Aug. 1 through Sept. 30.	Aug. 1–the last day of February.
Unit 18, remainder—1 moose	Aug. 10–Sept. 30. Dec. 20–the last day of February.

Harvest limits	Open season
Beaver:	
No limit	July 1–June 30.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
5 lynx	Aug. 10–Apr. 30.
Wolf:	
10 wolves	Aug. 10–Apr. 30.
Wolverine:	
2 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
50 per day, 100 in possession	Aug. 10–May 30.
Trapping	
Beaver:	
No limit	July 1–June 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Mar. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 31.

(19) *Unit 19.*

(i) Unit 19 consists of the Kuskokwim River drainage upstream from a straight line drawn between Lower Kalskag and Piamiut:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19B.

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage.

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwestern corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage.

(D) Unit 19D consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of the Selatna River, but excluding the Selatna and Black River drainages, to a line extending from Dyckman Mountain on the northern Unit 19D boundary southeast to the 1,610-foot crest of Munsatli Ridge, then south along Munsatli Ridge to the 2,981-foot peak of Telida Mountain, then northeast to the intersection of the western boundary of Denali National Preserve with the Minchumina–Telida winter trail, then south along the western boundary of Denali National Preserve to the southern boundary of Unit 19D, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use

Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of Units 19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 19A and 19B—those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Unit 19A, remainder, 19B, remainder, and Unit 19D—1 bear	Aug. 10–June 30.
Caribou:	
Unit 19A—north of Kuskokwim River—2 caribou, no more than 1 caribou may be a bull; no more than 1 caribou may be taken from Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 19A—south of the Kuskokwim River and Unit 19B (excluding rural Alaska residents of Lime Village)—2 caribou; no more than 1 caribou may be a bull; no more than 1 caribou may be taken Aug. 1–Jan. 31.	Aug. 1–Mar. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Unit 19D, remainder—1 caribou	Aug. 10–Sept. 30.
Unit 19—Residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep:	
1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 19—Residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State permits). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A—North of the Kuskokwim River, upstream from but excluding the George River drainage, and south of the Kuskokwim River upstream from and including the Downey Creek drainage, not including the Lime Village Management Area; Federal public lands are closed to the taking of moose.	No open season.
Unit 19A, remainder—1 antlered bull by Federal drawing permit or a State permit. Federal public lands are closed to the taking of moose except by residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek hunting under these regulations. The Refuge Manager of the Yukon Delta NWR, in cooperation with the BLM Field Office Manager, will annually establish the harvest quota and number of permits to be issued in coordination with the State Tier I hunt. If the allowable harvest level is reached before the regular season closing date, the Refuge Manager, in consultation with the BLM Field Office Manager, will announce an early closure of Federal public lands to all moose hunting.	Sept. 1–20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side	Sept. 1–20.
Unit 19C—1 antlered bull	Sept. 1–20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–30.
Unit 19D—remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sept. 1–30. Dec. 1–Feb. 28.
Unit 19D, remainder—1 antlered bull	Sept. 1–30. Dec. 1–15.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	Sept. 1–Mar. 15.
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Nov. 1–Jun. 10.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Mar. 31.

Harvest limits	Open season
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(20) *Unit 20.*

(i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River.

(B) Unit 20B consists of drainages into the northrn bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage.

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River.

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage.

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage.

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 of the Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River.

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife;

(D) You may not use any motorized vehicle for hunting August 5–September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport.

(E) You may by permit hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River

3 miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning.

(F) You may only hunt moose by bow and arrow in the Fairbanks Management Area. The Area consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear April 15–June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap, or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 20E during April and October.

(C) Residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals at the request of the Native Village of Tanana only. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 20A—1 bear	Sept. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20, remainder—1 bear	Sept. 1–May 31.
Caribou:	
Unit 20E—1 caribou A joint State/Federal registration permit is required. During the Aug. 10–Sept. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou. During the Nov. 1–Mar. 31 season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that fewer than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds..	Aug. 10–Sept. 30. Nov. 1–March. 31.
Unit 20F—north of the Yukon River —1 caribou	Aug. 10–Mar. 31.
Unit 20F—east of the Dalton Highway and south of the Yukon River—1 caribou; A joint State/Federal registration permit is required. During the Aug. 10–Sept. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sept. 30. Nov. 1–Mar. 31.
Moose:	
Unit 20A—1 antlered bull	Sept. 1–20.
Unit 20B—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–20. Jan. 10–Feb. 28.
Unit 20B, remainder —1 antlered bull	Sept. 1–20.
Unit 20C—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–30. Nov. 15–Dec. 15.
Unit 20C, remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–30.
Unit 20E—that portion within Yukon–Charley Rivers National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 20E—that portion drained by the Middle Fork of the Fortymile River upstream from and including the Joseph Creek drainage—1 bull.	Aug. 20–Sept. 30.
Unit 20E remainder—1 bull by joint Federal/State registration permit	Aug. 24–Sept. 25.
Unit 20F—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only..	Sept. 1–25.
Unit 20F, remainder—1 antlered bull	Sept. 1–25. Dec. 1–10.
Beaver:	
Unit 20E—Yukon–Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sept. 20–May 15.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
Unit 20A, 20B, and that portion of 20C east of the Teklanika River—2 lynx	Dec. 1–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20, remainder—2 lynx	Dec. 1–Jan. 31.
Muskrat:	
Unit 20E, that portion within Yukon-Charley Rivers National Preserve—No limit	Sept. 20–June 10.
Unit 20C, that portion within Denali National Park and Preserve—25 muskrat	Nov. 1–June 10.
Unit 20, remainder	No open season.
Wolf:	
Unit 20—10 wolves	Aug. 10–Apr. 30.
Unit 20C, that portion within Denali National Park and Preserve—1 wolf during the Aug. 10–Oct. 31 period; 5 wolves during the Nov. 1–Apr. 30 period, for a total of 6 wolves for the season.	Aug. 10–Oct. 31. Nov. 1–Apr. 30.
Unit 20C, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Units 20A, 20B, 20C, 20E, and 20F—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow):	
Unit 20—those portions within 5 miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.
Unit 20E—25 beaver per season. Only firearms may be used during Sept. 20–Oct. 31 and Apr. 16–May 15, to take up to 6 beaver. Only traps or snares may be used Nov. 1–Apr. 15. The total annual harvest limit for beaver is 25, of which no more than 6 may be taken by firearm under trapping or hunting regulations. Meat from beaver harvested by firearm must be salvaged for human consumption..	Sept. 20–May 15.
Coyote:	
Unit 20E—No limit	Oct. 15–Apr. 30.
Unit 20, remainder—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 20A, 20B, and 20C east of the Teklanika River—No limit	Dec. 15–Feb. 15.
Unit 20E—No limit; however, no more than 5 lynx may be taken between Nov. 1 and Nov. 30.	Nov. 1–Dec. 31.
Unit 20F and 20C—remainder—No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20E—No limit	Sept. 20–June 10.
Unit 20, remainder—No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(21) *Unit 21.*

(i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut to, but not including, the Tozitna River drainage on the north bank, and to, but not including, the Tanana River drainage on the south bank; and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage.

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby–Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Melozitna River drainage upstream from Grayling Creek.

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage.

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby–Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek.

(E) Unit 21E consists of the Yukon River drainage from Paimiut upstream to, but not including, the Blackburn Creek drainage, and the Innoko River

drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Unit 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′ N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.71′ W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1–June 10.

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three-moose limit is not cumulative with that permitted by the State.

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21, remainder—1 bear	Aug. 10–June 30.
Caribou:	
Unit 21A—1 caribou	Aug. 10–Sept. 30. Dec. 10–Dec. 20.
Unit 21B—that portion north of the Yukon River and downstream from Ukawutni Creek	No open season.
Unit 21C—the Dulbi and Melozitna River drainages downstream from Big Creek	No open season.
Unit 21B remainder, 21C remainder, and 21E—1 caribou	Aug. 10–Sept. 30.
Unit 21D—north of the Yukon River and east of the Koyukuk River—caribou may be taken during a winter season to be announced by the Refuge Manager of the Koyukuk/Nowitna National Wildlife Refuge Manager and the BLM Central Yukon Field Office Manager, in consultation with ADF&G and the Chairs of the Western Interior Subsistence Regional Advisory Council, and the Middle Yukon and Ruby Fish and Game Advisory Committees.	Winter season to be announced
Unit 21D, remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 21B—that part of the Nowitna River drainage downstream from and including the Little Mud River drainage—1 bull. A State registration permit is required from Sept. 5–25. A Federal registration permit is required from Sept. 26–Oct. 1.	Sept. 5–Oct. 1.

Harvest limits	Open season
Unit 21B—that part of the Nowitna River drainage downstream from and including the Little Mud River drainage—1 antlered bull. A Federal registration permit is required during the 5-day season and will be limited to one per household. The 5-day season may be announced by the Koyukuk/Nowitna National Wildlife Refuge Manager after consultation with the ADF&G and the Chairs of the Western Interior Regional Advisory Council and the Ruby Fish and Game Advisory Committee.	Five-day season to be announced between Dec. 1 and March 31.
Unit 21A and 21B, remainder—1 bull	Aug. 20–Sept. 25. Nov. 1–30.
Unit 21C—1 antlered bull	Sept. 5–25.
Unit 21D—Koyukuk Controlled Use Area—1 bull; 1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna NWR manager. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota	Mar. 1–5 seson to be announced.
or	
1 antlered bull by Federal permit, if there is no Mar.1–5 season and if authorized by announcement by the Koyukuk/Nowitna NWR manager and BLM Central Yukon field office manager. A harvestable surplus of bulls will be determined for a quota. Announcement for the Mar. and Apr. seasons and harvest quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon and Koyukuk River Fish and Game Advisory Committee.	Apr. 10–15 season to be announced.
Unit 21D, remainder—1 moose; however, antlerless moose may be taken only during Sept. 21–25 and the Mar. 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Central Yukon Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 22–31 and Sept. 5–25 seasons, a State registration permit is required. During the Mar. 1–5 season a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Aug. 22–31. Sept. 5–25. Mar. 1–5 season to be announced
Unit 21E—1 moose; however, only bulls may be taken from Aug. 25–Sept. 30	Aug. 25–Sept. 30. Feb. 15–Mar. 15.
During the Feb. 15–Mar. 15 season, a Federal registration permit is required. The permit conditions and any needed closures for the winter season will be announced by the Innoko NWR manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee as stipulated in a letter of delegation. Moose may not be taken within one-half mile of the Innoko or Yukon River during the winter season.	
Beaver:	
Unit 21E—No limit	Nov. 1–June 10.
Unit 21, remainder	No open season.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No Limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(22) *Unit 22.*

(i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands.

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage.

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands.

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York and St. Lawrence Island;

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons.

(B) Coyote, incidentally taken with a trap or snare, may be used for subsistence purposes.

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

(D) The taking of one bull moose and up to three musk oxen by the community of Wales is allowed for the celebration of the Kingikmuit Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may only occur within regularly established seasons in Unit 22E. The harvest will count against any established quota for the area.

(E) A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients in the course of a season, but have no more than two harvest limits in his/her possession at any one time, except in Unit 22E where a resident of Wales or Shishmaref acting as a designated hunter may hunt for any number of recipients, but have no more than four harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	
Unit 22A and 22B—3 bears	Jul. 1–Jun. 30.
Unit 22, remainder	No open season.
Brown Bear:	
Unit 22A, 22B, 22D, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31. May 10–25.
Caribou:	
Unit 22B west of Golovin Bay and west of a line along the west bank of the Fish and Niukluk Rivers and excluding the Libby River drainage—5 caribou per day.	Oct. 1–Apr. 30. May 1–Sept. 30, a season may be opened by announcement by the Anchorage Field Office Manager of the BLM, in consultation with ADF&G.
Units 22A, 22B remainder, that portion of Unit 22D in the Kougaruk, Kuzitrin (excluding the Pilgrim River drainage), American, and Agiapuk River Drainages, and Unit 22E, that portion east of and including the Sanaguich River drainage—5 caribou per day; cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 22A—that portion north of and including the Tagoomenik and Shaktoolik River drainages—1 bull. Federal public lands are closed to hunting except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30.
Unit 22A—that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of the Tagoomenik and Shaktoolik River drainages—Federal public lands are closed to the taking of moose, except that residents of Unalakleet, hunting under these regulations, may take 1 bull by Federal registration permit, administered by the BLM Anchorage Field Office with the authority to close the season in consultation with ADF&G.	Aug. 15–Sept. 14
Unit 22A, remainder—1 bull. However, during the period Jan.1–Feb. 15, only an antlered bull may be taken. Federal public lands are closed to the taking of moose except by residents of Unit 22A hunting under these regulations.	Aug. 1–Sept. 30. Jan. 1–Feb. 15
Unit 22B—west of the Darby Mountains—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.	Sept. 1–14.

Harvest limits	Open season
Unit 22B—west of the Darby Mountains—1 bull by either Federal or State registration permit. Quotas and any needed season closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–31.
Unit 22B, remainder—1 bull	Aug. 1–Jan. 31.
Unit 22C—1 antlered bull	Sept. 1–14.
Unit 22D—that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Sept. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Sept. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–31.
Unit 22D, remainder—1 bull	Aug. 10–Sept. 14. Oct. 1–Nov. 30.
Unit 22D, remainder—1 moose; however, no person may take a calf or a cow accompanied by a calf	Dec. 1–31.
Unit 22D, remainder—1 antlered bull	Jan. 1–31.
Unit 22E—1 antlered bull. Federal public lands are closed to the taking of moose except by Federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Musk ox:	
Unit 22B—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except by Federally qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Aug.1–Mar. 15.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 musk ox by Federal permit or State permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands in consultation with ADF&G and BLM.	Sept.1–Mar. 15.
Unit 22D, that portion within the Kuzitrin River drainages—1 musk ox by Federal permit or State permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of musk ox except by Federally qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Bering Land Bridge National Preserve in consultation with ADF&G and BLM.	Aug.1–Mar. 15.
Unit 22D, remainder—1 musk ox by Federal permit or State permit; however, cows may only be taken during the period Jan. 1–Mar. 15. Federal public lands are closed to the taking of musk ox except by Federally qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 22E—1 musk ox by Federal permit or State permit. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands in consultation with ADF&G and BLM.	Aug. 1–Mar. 15.
Unit 22, remainder	No open season.
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22, remainder	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	Sept. 1–Apr. 15.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Marten:	
Unit 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22, remainder	No open season.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	
3 wolverines	Sept. 1–Mar. 31.
Grouse (Spruce):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.

Harvest limits	Open season
Unit 22, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22C	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(23) *Unit 23.*

(i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area for the period August 15–September 30. The Area consists of that portion of Unit 23 in a corridor extending 5 miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek. This closure does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved].

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1–Jun. 10.

(D) For the Baird and DeLong Mountain sheep hunts—A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time.

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

(F) A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 23—1 bear by State registration permit	Aug. 1–May 31.
Caribou:	
15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	

Harvest limits	Open season
Unit 23—south of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep is 21, of which 15 may be rams and 6 may be ewes. Federal public lands are closed to the taking of sheep except by Federally qualified subsistence users hunting under these regulations.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23—north of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep for the DeLong Mountains is 8, of which 5 may be rams and 3 may be ewes.	Aug. 10–April 30. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.
Unit 23, remainder (Schwatka Mountains)—1 ram with 7/8 curl or larger horn	Aug. 10–Sept. 20.
Unit 23, remainder (Schwatka Mountains)—1 sheep	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose; no person may take a calf or a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1–Mar. 31; no person may take a calf or a cow accompanied by a calf.	Aug. 1–Mar. 31.
Unit 23, remainder—1 moose; no person may take a calf or a cow accompanied by a calf	Aug. 1–Mar. 31.
Musk ox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal permit or State permit	Aug. 1–Dec. 31.
or	
1 musk ox by Federal permit or State permit	Jan. 1–Mar. 15.
Federal public lands are closed to the taking of musk ox except by Federally qualified subsistence users hunting under these regulations. Annual harvest quotas and any needed closures will be announced by the Superintendent of the Western Arctic National Parklands, in consultation with ADF&G and BLM.	
Unit 23—Cape Krusenstern National Monument—1 bull by Federal permit. Annual harvest quotas and any needed closures will be announced by the Superintendent of Western Arctic National Parklands. Cape Krusenstern National Monument is closed to the taking of musk oxen except by resident zone community members with permanent residence within the Monument or the immediately adjacent Napaktuktuk Mountain area, south of latitude 67°05′ N and west of longitude 162°30′ W hunting under these regulations.	Aug. 1–Mar. 15.
Unit 23, remainder	No open season.
Beaver:	
No limit	July 1–June 30.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
15 wolves	Oct. 1–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Muskrat:	
No limit	July 1–June 30.
Grouse (Spruce and Ruffed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23, remainder—30 beaver	July 1–June 30.
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	

Harvest limits	Open season
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(24) *Unit 24.*

(i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage:

(A) Unit 24A consists of the Middle Fork of the Koyukuk River drainage upstream from but not including the Harriet Creek and North Fork Koyukuk River drainages, to the South Fork of the Koyukuk River drainage upstream from Squaw Creek, the Jim River Drainage, the Fish Creek drainage upstream from and including the Bonanza Creek drainage, to the 1,410 ft. peak of the hydrologic divide with the northern fork of the Kanuti Chalatna River at N. Lat. 66°33.303′ W. Long. 151°03.637′ and following the unnamed northern fork of the Kanuti Chalatna Creek to the confluence of the southern fork of the Kanuti Chalatna River at N. Lat 66°27.090′ W. Long. 151°23.841′, 4.2 miles SSW (194 degrees true) of Clawanmenka Lake and following the unnamed southern fork of the Kanuti Chalatna Creek to the hydrologic divide with the Kanuti River drainage at N. Lat. 66°19.789′ W. Long. 151°10.102′, 3.0 miles ENE (79 degrees true) from the 2,055 ft. peak on that divide, and the Kanuti River drainage upstream from the confluence of an unnamed creek at N. Lat. 66°13.050′ W. Long.151°05.864′, 0.9 miles SSE (155 degrees true) of a 1,980 ft. peak on that divide, and following that unnamed creek to the Unit 24 boundary on the hydrologic divide to the Ray River drainage at N. Lat. 66°03.827′ W. Long. 150°49.988′ at the 2,920 ft. peak of that divide.

(B) Unit 24B consists of the Koyukuk River Drainage upstream from Dog Island to the Subunit 24A boundary.

(C) Unit 24C consists of the Hogatza River Drainage, the Koyukuk River Drainage upstream from Batza River on the north side of the Koyukuk River and upstream from and including the Indian River Drainage on the south side of the Koyukuk River to the Subunit 24B boundary.

(D) Unit 24D consists of the remainder of Unit 24.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area.

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Unit 21s and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N. lat., 157°43.10′ W. long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N. lat., 157°44.89′ W. long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N. lat., 156°41 W. long.) at 65°56.66′; N. lat., 156°40.81′ W. long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N. lat., 156°12.710 W. long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N. lat., 155°18.57′ W. long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N. lat., 154°52.18′ W. long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N. lat., 156°06.43′ W. long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N. lat., 157°21.73′ W. long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning. However, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area. All hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25;

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 24—1 bear by State registration permit	Aug. 10–June 30.
Caribou:	
Unit 24—that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Unit 24, remainder—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 24A and 24B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 24A and 24B—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 24A—except that portion within the Gates of the Arctic National Park—1 ram with 7/8-curl or larger horn by Federal registration permit only.	Aug. 20–Sept. 30.
Unit 24, remainder—1 ram with 7/8-curl or larger horn	Aug. 10–Sept. 20.
Moose:	
Unit 24A—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1.
Unit 24B—that portion within the John River Drainage—1 moose	Aug. 1–Dec. 31.
Unit 24B—All drainages of the Koyukuk River downstream from and including the Henshaw Creek drainage—1 antlered bull by Federal registration permit.	Aug. 25–Oct. 1. Dec. 15–Apr. 15 (until Jun. 30, 2014).
Federal public lands in the Kanuti Controlled Use Area, as described in Federal regulations, are closed to taking of moose, except by Federally qualified subsistence users of Unit 24, Koyukuk, and Galena hunting under these regulations.	
Unit 24B, remainder 1 antlered bull. A Federal registration permit is required for the Sept. 26–Oct. 1 period	Aug. 25–Oct. 1.
Federal public lands in the Kanuti Controlled Use Area, as described in Federal regulations, are closed to taking of moose, except by Federally qualified subsistence users of Unit 24, Koyukuk, and Galena hunting under these regulations.	
Unit 24C and 24D—that portion within the Koyukuk Controlled Use Area and Koyukuk National Wildlife Refuge—1 bull.	Sept. 1–25.
1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Mar. 1–5 to be announced.
or	or
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office.	Apr. 10–15 to be announced.
Harvest of cow moose accompanied by calves is prohibited. Announcement for the Mar. and Apr. seasons and harvest quotas will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, and the Middle Yukon and Koyukuk River Fish and Game Advisory Committees.	
Unit 24C, remainder and Unit 24D, remainder—1 antlered bull. During the Sept. 5–25 season, a State registration permit is required.	Aug. 25–Oct. 1.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine:	
5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Mar. 31.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(25) *Unit 25.*

(i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage.

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River.

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage.

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into 2 roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the headwaters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may take caribou and moose from a boat moving under power in Unit 25.

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contacts the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provides to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, and the general area in which the taking will occur;

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west;

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 25A, 25B, and 25C—3 bears or 3 bears by State community harvest permit	Jul. 1–June 30.
Unit 25D—5 bears	Jul. 1–June 30.
Brown Bear:	
Units 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sept. 1–May 31.
Unit 25D—2 bears every regulatory year.	Jul. 1–June 30.
Caribou:	
Unit 25A—in those portions west of the east bank of the East Fork of the Chandalar River extending from its confluence with the Chandalar River upstream to Guilbeau Pass and north of the south bank of the mainstem of the Chandalar River at its confluence with the East Fork Chandalar River west (and north of the south bank) along the West Fork Chandalar River—10 caribou. However, only bulls may be taken May16–Jun. 30.	Jul. 1–June 30
Unit 25C—1 caribou; a joint Federal/State registration permit is required. During the Aug. 10–Sept. 30 season, the harvest is restricted to 1 bull. The harvest quota between Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sept. 30. Nov. 1–Mar. 31.
Unit 25D—that portion of Unit 25D drained by the west fork of the Dall River west of 150° W. long.—1 bull	Aug. 10–Sept. 30. Dec.1–31.
Unit 25A remainder, 25B, and Unit 25D, remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25A—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Federal public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkyitsik hunting under these regulations.	Aug. 10–Apr. 30.
Unit 25A, remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25A—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–10.
Unit 25B—that portion within Yukon–Charley National Preserve—1 bull	Aug. 20–Sept. 30.
Unit 25B—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–10.
Unit 25B—that portion, other than Yukon-Charley Rivers National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–30. Dec. 1–15.
Unit 25B, remainder—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–15.
Unit 25C—1 antlered bull	Aug. 20–Sep. 30.
Unit 25D (west)—that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek, and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D (west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25D (west) is closed at all times except for residents of Unit 25D (west) hunting under these regulations. The moose season will be closed by announcement of the Refuge Manager Yukon Flats NWR when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25D (west).	Aug. 25–Feb. 28.
Unit 25D, remainder—1 antlered moose	Aug. 25–Oct. 1. Dec. 1–20.
Beaver:	
Unit 25A, 25B, and 25D—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25C	No open season.
Coyote:	
10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe):	
No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25, remainder—2 lynx	Nov. 1–Feb. 28.
Muskrat:	
Unit 25B and 25C, that portion within Yukon–Charley Rivers National Preserve—No limit	Nov. 1–June 10.
Unit 25, remainder	No open season.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed):	

Harvest limits	Open season
Unit 25C—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25C—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—20 per day, 40 in possession.	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 25C—No limit	Nov. 1–Apr. 15.
Unit 25—remainder—50 beaver	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	
Unit 25C—No limit	Nov. 1–Feb. 28.
Unit 25, remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26.*

(i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose during the periods July. 1–Sept. 14 and Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports.

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may hunt brown bear in Unit 26A by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) In Kaktovik, a Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep or musk ox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(D) For the DeLong Mountain sheep hunts—A Federally qualified subsistence user (recipient) may designate another Federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipient's harvest limits in his/her possession at the same time.

Harvest limits	Open season
Hunting	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 26A—1 bear by State registration permit	July 1–June 30.
Unit 26B—1 bear	Jan. 1–Dec. 31.
Unit 26 C—1 bear	Aug. 10–June 30.
Caribou:	
Unit 26A—10 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Unit 26B—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30.	July 1–June 30
Unit 26C—10 caribou per day	July 1–Apr. 30
(You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass.)	
Sheep:	
Unit 26A and 26B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 26A—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26A—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 sheep by Federal registration permit. The total allowable harvest of sheep for the DeLong Mountains is 8, of which 5 may be rams and 3 may be ewes. If the allowable harvest levels are reached before the regular season closing date, the Superintendent of the Western Arctic National Parklands will announce an early closure.	Aug. 10–April 30.
Unit 26B—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8-curl or larger horn by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 26A, remainder and 26B, remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8-curl or larger horn.	Aug. 10–Sept. 20.
Unit 26C—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8-curl or larger horn. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sept. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 bull.	Aug. 1–Sept. 14.
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 moose; however, you may not take a calf or a cow accompanied by a calf.	Feb. 15–Apr. 15.
Unit 26A—that portion west of 156°00′ W. longitude excluding the Colville River drainage—1 moose, however, you may not take a calf or a cow accompanied by a calf.	July 1–Sept. 14.
Unit 26A, remainder—1 bull	Aug. 1–Sept. 14
Unit 26B, excluding the Canning River drainage—1 bull	Sept. 1–14.
Units 26B, remainder and 26C—1 moose by Federal registration permit by residents of Kaktovik only. The harvest quota is 3 moose (2 antlered bulls and 1 of either sex), provided that no more than 2 antlered bulls may be harvested from Unit 26C and cows may not be harvested from Unit 26C. You may not take a cow accompanied by a calf in Unit 26B. Only 3 Federal registration permits will be issued. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	Jul. 1–Mar. 31.
Musk ox:	
Unit 26C—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of musk oxen counted in Unit 26C during a pre-calving census. Public lands are closed to the taking of musk ox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations.	Jul. 15–Mar. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Units 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
15 wolves	Aug. 10–Apr. 30.
Wolverine:	
5 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock and Willow):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

Dated: May 11, 2012.

Peter J. Probasco,

Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

Dated: May 11, 2012.

Steve Kessler,

Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 2012–13866 Filed 6–12–12; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P



FEDERAL REGISTER

Vol. 77 Wednesday,
No. 114 June 13, 2012

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 55 and 81

Chronic Wasting Disease Herd Certification Program and Interstate Movement of Farmed or Captive Deer, Elk, and Moose; Interim Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 55 and 81

[Docket No. 00–108–8]

RIN 0579–AB35

Chronic Wasting Disease Herd Certification Program and Interstate Movement of Farmed or Captive Deer, Elk, and Moose

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim final rule and request for comments.

SUMMARY: We are amending a final rule, which will take effect when these amendments become effective, that will establish a herd certification program to control chronic wasting disease (CWD) in farmed or captive cervids in the United States. Under that rule, owners of deer, elk, and moose herds who choose to participate in the CWD Herd Certification Program would have to follow requirements for animal identification, testing, herd management, and movement of animals into and from herds. This document amends that final rule to provide that our regulations will set minimum requirements for the interstate movement of farmed or captive deer, elk, and moose but will not preempt State or local laws or regulations that are more restrictive than our regulations. This document requests public comment on that change. This document also amends the final rule to require farmed or captive deer, elk, and moose to participate in the Herd Certification Program and to be monitored for CWD for 5 years before they can move interstate, clarify our herd inventory procedures, establish an optional protocol for confirmatory DNA testing of CWD-positive samples, add a requirement to continue testing cervids that are killed or sent to slaughter from Certified herds, and make several other changes. These actions will help to control the incidence of CWD in farmed or captive cervid herds and prevent its spread.

DATES: *Effective Date:* This interim final rule is effective August 13, 2012. Additionally, the effective date of FR Doc 06–6367, published on July 21, 2006 (71 FR 41682–41707), and delayed by FR Doc E6–14861, published on September 8, 2006 (71 FR 52983), is now August 13, 2012.

Compliance Date: The date for complying with 9 CFR part 81 is delayed until December 10, 2012. The compliance date for 9 CFR part 55 is August 13, 2012.

Comment Date: We will consider all comments on the subject of preemption of State and local laws and regulations regarding chronic wasting disease that we receive on or before July 13, 2012. We will consider comments we receive during the comment period for this interim final rule. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2006-0118-0199.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. 00–108–8, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2006-0118* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Patrice Klein, Senior Staff Veterinarian, National Center for Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 851–3435.

SUPPLEMENTARY INFORMATION:

Comment Subject Area

This interim final rule with request for comments discusses our decision not to preempt State and local laws and regulations that are more restrictive than our regulations with respect to chronic wasting disease, except to allow transit of deer, elk, and moose that are otherwise eligible for interstate movement through States with more restrictive laws and regulations, in section III of the Background section under the heading ''APHIS' Decision Not to Preempt More Restrictive State Requirements on Farmed or Captive Cervids With Respect to CWD.'' We will consider all comments that we receive on this subject that are received by the date and time indicated in the **DATES** section of this interim final rule with request for comments.

Background

I. Purpose of the Regulatory Action

a. Need for the Regulatory Action

Chronic wasting disease (CWD) is a transmissible spongiform encephalopathy (TSE) of cervids (members of Cervidae, the deer family) that, as of May 2011, has been found only in wild and captive animals in North America and in captive animals in the Republic of Korea. First recognized as a clinical ''wasting'' syndrome in 1967, the disease is typified by chronic weight loss leading to death. Species currently known to be susceptible to CWD via natural routes of transmission include Rocky Mountain elk, mule deer, white-tailed deer, black-tailed deer, sika deer, and moose.

In the United States, as of March 2012, CWD has been confirmed in wild deer and elk in 16 States and in 39 farmed elk herds and 15 farmed or captive white-tailed deer herds in 11 States. The disease was first detected in U.S. farmed elk in 1997. It was also diagnosed in a wild moose in Colorado in 2005.

The presence of CWD in cervids causes significant economic and market losses to U.S. producers. Canada prohibits the importation of elk from Colorado and Wyoming and now requires that other cervids be accompanied by a certificate stating that CWD has not been diagnosed in the herd of origin. The Republic of Korea has suspended the importation of deer and elk and their products from the United States and Canada. The domestic prices for elk and deer have also been severely affected by fear of CWD.

To help producers avoid the losses caused by CWD infection and risk, we determined that it was necessary to establish a program that would actively identify herds infected with CWD and allow producers to manage these herds in a way that will prevent further spread of CWD. Specifically, on July 21, 2006, we published a final rule in the **Federal Register** (71 FR 41682–41707, Docket No. 00–108–3; ''the July 2006 final rule'') that established the Chronic Wasting Disease Herd Certification Program in 9 CFR subchapter B, part 55. (That part had previously contained only regulations related to the payment of indemnity to the owners of CWD-positive captive herds who voluntarily depopulate their herds.)

Under the July 2006 final rule, owners of deer, elk, and moose herds who choose to participate would have to

follow the program requirements of a cooperative State-Federal program for animal identification, testing, herd management, and movement of animals into and from herds. The July 2006 final rule also amended 9 CFR subchapter C by establishing a new part 81 containing interstate movement requirements designed to prevent the spread of CWD through the movement of farmed or captive deer, elk, or moose.

After publication of the July 2006 final rule, but before its effective date, APHIS received three petitions requesting reconsideration of several requirements of the rule. On September 8, 2006, we published a notice in the **Federal Register** (71 FR 52983, Docket No. 00–108–4) that delayed the effective date of the CWD final rule while APHIS considered those petitions. On November 3, 2006, we published another notice in the **Federal Register** (71 FR 64650–64651, Docket No. 00–108–5) that described the nature of the petitions and made the petitions available for public review and comment, with a comment period closing date of December 4, 2006. We subsequently extended that comment period until January 3, 2007, in a **Federal Register** notice published on November 21, 2006 (71 FR 67313, Docket No. 00–108–6).

We received 77 comments by that date. They were from cervid producer associations, individual cervid producers, State animal health agencies, State wildlife agencies, and others. We carefully considered the petitions and the public comments received in response to them.

On March 31, 2009, we published in the **Federal Register** (74 FR 14495–14506, Docket No. 00–108–7; ''the March 2009 proposed rule'') a proposal [1] to amend the July 2006 final rule. We proposed to amend the July 2006 final rule by recognizing State bans on the entry of farmed or captive cervids for reasons unrelated to CWD, increasing to 5 the number of years an animal must be monitored for CWD before it may be moved interstate; restricting the interstate movement of cervids that originated from herds in proximity to a CWD outbreak; changing herd inventory procedures; prohibiting the addition of animals to CWD-positive, -suspect, and -exposed herds; requiring States to conduct wildlife surveillance for CWD as part of their Approved State CWD Herd Certification Programs; providing for optional confirmatory DNA testing of CWD-positive samples; and making several other changes.

This final rule sets an effective date for the July 2006 final rule and makes changes to it based on the March 2009 proposal and on the comments we received on that proposal.

b. Legal Authority for the Regulatory Action

Under the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture has the authority to issue orders and promulgate regulations to prevent the introduction into the United States and the dissemination within the United States of any pest or disease of livestock. The Animal and Plant Health Inspection Service's (APHIS') regulations in 9 CFR subchapter B govern cooperative programs to control and eradicate communicable diseases of livestock. The regulations in 9 CFR subchapter C establish requirements for the interstate movement of livestock to prevent the dissemination of diseases of livestock within the United States.

II. Summary of the Major Provisions of the Regulatory Action

The CWD Herd Certification Program is a cooperative effort between APHIS, State animal health and wildlife agencies, and deer, elk, and moose owners. APHIS coordinates with these State agencies to encourage deer, elk, and moose owners to certify their herds as low risk for CWD by being in continuous compliance with the CWD Herd Certification Program standards.

Under subchapter B of part 55, States that participate in the CWD Herd Certification Program must establish State programs that are approved by APHIS. We will approve such programs if the State:

- Establishes movement restrictions on CWD-positive, CWD-suspect, and CWD-exposed animals, to prevent the spread of the disease, and requires testing of such animals.
- Conducts traceback on such animals, to determine what other animals may be affected.
- Requires testing of all animals that die or are killed. As we do not have live-animal tests for CWD, it is important to sample and test carcasses whenever possible to accurately evaluate the CWD risk in a herd.
- Maintain premises and animal identification for all herds participating in the CWD Herd Certification Program in the State. This is an integral part of being able to conduct traceback.

Herd owners will be approved to participate under State CWD Herd Certification Programs if they:

- Identify each animal in their herds through approved means of identification and maintain a complete inventory of the herd. These requirements are also integral to conducting traceback. Upon request by APHIS or the State, owners must also allow officials to conduct a herd inventory to verify the records.
- Add to their herds only animals that are from herds enrolled in the CWD Herd Certification Program, to ensure that animals added to herds are of known risk.
- Maintain perimeter fencing adequate to prevent ingress or egress of cervids, to prevent CWD from being spread through contact with wild cervids.
- Report to APHIS or the State all animals that escape or disappear, and report to APHIS or the State all animals that die or are killed and make their carcasses available for tissue sampling and testing.

Herds are given a status based on the date they enrolled in the program. Herds that do not have any CWD-infected or CWD-exposed animals for 5 years will be granted Certified status. (Herd owners who participate in State CWD Herd Certification Programs that are approved by APHIS will be credited for the time they have participated in such a program towards the 5-year requirement.) Based on current science, 5 years of surveillance is a reasonable time period to determine whether the disease is present in the herd, as CWD has an incubation period. Thus, the movement of animals from a Certified herd poses a low risk of spreading CWD.

The movement restrictions in 9 CFR part 81 therefore allow deer, elk, and moose from Certified herds to move interstate. They also allow the interstate movement of wild animals captured for interstate movement or release, if identified with two forms of animal identification, including one official identification, and if the source population has been documented to be low risk for CWD based on a surveillance program. The part also allows the interstate movement of animals moved for slaughter; research animals; and other animals on a case-by-case basis. Finally, this part includes provisions under which deer, elk, or moose that are eligible to move interstate may transit a State that bans or restricts the entry of such animals en route to another State.

A detailed discussion of the provisions of 9 CFR part 55, subchapter B, and 9 CFR part 81 is available in the July 2006 final rule. This document concentrates on the changes we are making to the July 2006 final rule

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0118.*

subsequent to the March 2009 proposed rule and in response to comments. The major changes we are making are:

- The March 2009 proposal indicated that the goal of the CWD program was to eliminate the disease in farmed or captive cervids. We have now determined that our goal is to control the spread of the disease. The persistence of CWD in wild cervid populations and our current lack of knowledge about the transmission of CWD have made the goal of eliminating CWD from farmed or captive cervids impractical.
- Our CWD regulations will set minimum standards for State CWD Herd Certification Programs and for the interstate movement of cervids. The March 2009 proposal indicated that we would preempt State and local laws and regulations that were more restrictive as well. However, we have since decided that our regulations will not preempt State and local laws and regulations that are more stringent than our regulations, except that (as noted earlier) cervids that are eligible to move interstate may transit a State that bans or restricts the entry of such animals en route to another State. We are soliciting public comment on this decision, as described below under the heading ''APHIS' Decision Not to Preempt More Restrictive State Requirements on Farmed or Captive Cervids With Respect to CWD.''
- The March 2009 proposed rule included some proposed provisions designed to give States options to regulate CWD within the context of Federal preemption of State and local laws and regulations, such as allowing States to prohibit entry of cervids for reasons unrelated to CWD and because of proximity to findings of CWD in wildlife. We are not including those provisions in this final rule because they are no longer necessary given our decision on preemption.
- Because our goal is now to control the spread of CWD rather than to eliminate it, we are not requiring States to conduct surveillance for CWD in wild cervid populations or requiring States to prohibit the addition of animals to herds containing CWD-positive, CWD-exposed, or CWD-suspect animals.
- Based on comments on the March 2009 proposed rule, we are removing an exemption in the July 2006 final rule under which Certified herds were not required to make animals that were sent for slaughter or killed on shooter operations available for testing. We are also making several minor changes to improve the clarity of the changes we proposed and of the regulations.

III. Discussion of Comments

We solicited comments concerning the March 2009 proposal for 60 days ending July 1, 2009. We received 78 comments by that date. They were from producers, researchers, and representatives of State governments. They are discussed below by topic.

General Opposition to the CWD Herd Certification Program

Several commenters recommended that we withdraw the July 2006 final rule, rather than making changes to it as described in the proposal and issuing a revised final rule. These commenters stated that designing a Federal program for control of CWD in captive cervids is about a decade too late to be useful. The commenters doubted that, at this point in time, the Federal program as described would materially improve CWD control beyond what has already been achieved by the collective coordinated efforts of State animal health and wildlife management agencies. Rather, the commenters stated, options for providing Federal assistance to States would be most beneficial and efficient. Commenters also stated that, under this approach, many of the key elements of the Federal CWD Herd Certification Program could still be provided by APHIS to the States as guidance for establishing or refining their respective CWD control programs.

We have determined that a voluntary Federal CWD program is necessary to give States from which farmed or captive cervids are moved interstate and herd owners who move farmed or captive cervids interstate the opportunity to demonstrate that they meet minimum standards for CWD management. These minimum standards are necessary for an effective CWD program. Guidelines for a CWD program, rather than mandatory requirements, would not be sufficient to ensure that the CWD program is effective.

Accordingly, this final rule announces our intention to amend the July 2006 final rule and set an effective date for the amended final rule of August 13, 2012. The regulatory text at the end of this document includes the complete text of the July 2006 final rule, as amended by this final rule. The changes to the July 2006 final rule are described in the March 2009 proposed rule and the Background section of this document.

We agree with the commenters that circumstances relevant to a Federal CWD program have changed over time, necessitating a change in the objective of the CWD program. In the July 2006 final rule and the March 2009 proposed rule, as well as all our previous CWD-related rules, the stated objective of the CWD program was the elimination of CWD from captive and farmed cervids in the United States. We have now concluded, however, that our CWD objective should be to establish a herd certification program for herd owners and States to control the incidence of CWD in farmed and captive cervids and prevent the interstate spread of CWD. We have concluded that elimination of CWD from farmed and captive cervids is not practical given the persistence of CWD in wild cervid populations and our current lack of knowledge about how CWD may be transmitted between wild cervid populations and farmed and captive cervids. The CWD Herd Certification Program will allow States and herd owners to monitor herds of farmed and captive cervids to ensure that they are at low risk for CWD, and our regulations in part 81 will allow only farmed or captive deer, elk, and moose from herds that have reached Certified status in the CWD Herd Certification Program, after 5 years of monitoring, to be moved interstate, with limited exceptions.

A few commenters stated that the position that a Federal CWD program is unnecessary is in keeping with APHIS' overall intent to phase out regulatory efforts for ''program diseases'' in the coming decade.

We assume the commenters are referring to our plans for the strategic future of APHIS' Veterinary Services (VS) program,[2] in which we have stated that VS will increase its focus on disease prevention, preparedness, detection, and early response. Our plans also acknowledge that several major disease control and eradication programs are either complete or nearing completion. However, we do not contemplate APHIS phasing out administration of the disease control and eradication programs to which the commenters referred, but rather redirecting resources as necessary to accomplish new objectives based on new circumstances. We will continue to administer disease control and eradication programs, including the CWD Herd Certification Program.

One commenter stated that the proposed rule will fail to adequately control CWD in farmed or captive cervids in the United States. The commenter cited increases in positive tests of farmed and captive cervids for

[2] For more information on this plan, see *http://www.aphis.usda.gov/about_aphis/programs_offices/veterinary_services/vision_science.shtml.*

CWD and additional States in which CWD has been found in captive herds since December 2003, when the initial proposed rule to establish the CWD Herd Certification Program was published. The commenter stated that, if the goal of the CWD Herd Certification Program is to eliminate CWD from captive cervid herds, stricter controls must be in place to prevent further spread of the disease. For example, the commenter stated, it is possible for a captive cervid facility to earn Certified status, thus allowing animals from the herd to be moved interstate, without testing a single animal for CWD.

The suspension of the effective date of the July 2006 final rule means that States and herd owners have not been required to comply with its provisions. The CWD Herd Certification Program we are establishing imposes new controls on the interstate movement of deer, elk, and moose. The requirements for interstate movement and herd certification in the July 2006 final rule, with the modifications discussed in the March 2009 proposal and in this document, will help prevent the spread of CWD.

With respect to the commenter's specific concern regarding the July 2006 final rule, § 55.23(b)(3) requires herd owners to inform an APHIS or State representative regarding all animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter) and to make the carcasses of the animals available for tissue sampling and testing in accordance with instructions from the APHIS or State representative. We expect that we will test all samples that will be provided to us. If a herd had no mortality for 5 years, which is unlikely, it could reach Certified status without having animals tested. However, given our current knowledge about the biology of CWD, there is a low risk that CWD will be present in a herd after 5 years of monitoring with no mortality. In addition, continued surveillance will be required for any Certified herd to retain its Certified status.

APHIS' Decision Not To Preempt More Restrictive State Requirements on Farmed or Captive Cervids With Respect to CWD

In the Background section of the July 2006 final rule, under the heading ''Executive Order 12988,'' we stated that the July 2006 final rule preempted all State and local laws and regulations that were in conflict with it. Our intent was to establish uniform requirements that would apply to the interstate movement of farmed or captive cervids to each of the States.

The petitions we received and made available with the November 2006 notice indicated strong opposition to Federal preemption of State restrictions on farmed and captive cervids with respect to CWD. We considered the petitions, and the comments on the petitions, in developing the proposed rule we published in the **Federal Register** on March 31, 2009. We also received several comments on the March 2009 proposal addressing whether the Federal CWD requirements should preempt inconsistent State requirements.

As discussed earlier, we have now concluded that our objective with respect to CWD should be to establish a herd certification program for herd owners and States to control the incidence of CWD in farmed and captive cervids and prevent the interstate spread of CWD, as elimination of CWD from farmed and captive cervids is not practical. Accordingly, these CWD regulations will set mandatory minimum requirements for interstate movement of farmed or captive cervids with respect to CWD; they will not preempt State and local laws and regulations on CWD in farmed or captive cervids when those laws and regulations are more restrictive than the Federal regulations. (The only exception is with respect to the movement of farmed or captive cervids through a State, as discussed later in this document.)

This approach will ensure that there are minimum requirements applicable to the interstate movement of farmed or captive cervids, while also allowing State and local laws, regulations, and policies to impose additional requirements on farmed or captive cervids as necessary to address local needs. We believe this approach is appropriate for CWD, where we have limited methods for diagnosing the disease and preventing its spread and where the goal of the program is to control, rather than eradicate, the disease.

Several commenters focused on the issue of State wildlife management authority. These commenters stated that States must retain authority to regulate and manage wildlife resources more stringently if they feel that risks are not adequately mitigated by the Federal program. The commenters specifically cited banning movement of captive cervids into a State for any reason, including risks related to CWD.

The CWD Herd Certification Program seeks to control CWD in farmed or captive cervids. We are not imposing requirements on States with respect to management of wild cervid populations, except when those populations could pose a disease risk to farmed or captive cervids, such as the translocation of wild cervids from wild populations that have not been assessed for CWD. As long as they do not affect farmed or captive cervids, State and local laws and regulations related to management of wild cervid populations are not affected by the CWD regulations. The only provision of the July 2006 final rule that relates to wild cervids is a requirement that animals captured from wild populations for interstate movement and release be accompanied by a certificate documenting the source population to be low risk for CWD, based on a CWD surveillance program that is approved by the State government of the receiving State and by APHIS. This requirement is directly related to and necessary for preventing the introduction of CWD into farmed or captive cervid populations, although it provides some protection for wild cervid populations as well.

Note: The July 2006 final rule contained requirements in § 81.3(b) for interstate movement of captive cervids that were captured from free-ranging populations. In this final rule, we are changing the description of these populations to ''wild populations,'' as farmed or captive cervids may range freely on their premises without being considered ''free-ranging'' for the purposes of the regulations. We are also replacing references to ''free-ranging'' in the definitions of *farmed or captive* in §§ 55.1 and 81.1 with references to ''wild,'' changing the order of the wording in the phrase ''captured for interstate movement and release from a wild population'' in § 81.3(b) to ''captured from a wild population for interstate movement and release,'' and clarifying § 81.3(b) to indicate that it requires a CWD surveillance program for wild cervid populations in order to allow the interstate movement of cervids captured from wild populations. These changes are intended to improve the clarity of the regulations. Discussions of wild cervid populations in the remainder of the Background section of this rule reflect this change.

Several commenters also expressed concern regarding classifying farmed or captive cervids as livestock. These commenters noted that APHIS' authority to prevent, control, or eradicate diseases, pursuant to the AHPA, specifically refers to livestock. These commenters pointed out that that the legal definition of livestock is highly variable among States; many States do not define captive native species as ''livestock,'' since livestock is not always within the sole jurisdiction of their fish and wildlife agencies. Thus, the commenters stated, in some instances captive cervids of native species may not fall within the Federal definition of livestock. The commenters

recommended removing the references to livestock in the regulations or yielding to a State's definition when referring to cervids in this way.

We appreciate the commenters' concerns. Clearly, farmed and captive cervids are not traditional livestock; they are often referred to as alternative livestock. We understand that State fish and wildlife agencies in many States are responsible for the management of all cervids within their State, not just those that are wild but also those held on farms or in other captive situations. Nonetheless, these agencies may not have experience working within the context of a program designed to control an animal disease in farmed or captive animal populations.

The AHPA charges the U.S. Department of Agriculture with the responsibility of controlling or eradicating any pest or disease of livestock, and defines ''livestock'' broadly as ''all farm-raised animals.'' This means that all farmed or captive cervids fall under the AHPA definition of livestock. Under this authority, we have determined that it is appropriate to establish requirements for the interstate movement of farmed or captive cervids to help prevent the spread of CWD. To the extent that State fish and wildlife agencies are responsible for farmed or captive cervids in their States, they will need to cooperate with APHIS in the administration of the CWD regulations. We will work with State fish and wildlife agencies to help them to understand their responsibilities and to ensure that we can cooperate well. It is important to reiterate that States retain the authority to manage fish and wildlife populations, including wild cervids, under this final rule.

Several commenters urged the adoption of regulations that would preempt State and local laws and regulations on farmed or captive cervids with respect to CWD. Commenters noted that the movement of farmed and captive deer and elk has been extremely difficult because of a variety of different rules at the State level, with some States banning the movement of farmed or captive deer and elk into or through their States altogether.

We understand the commenters' concerns with regard to facilitating the interstate movement of farmed and captive cervids. For the reasons set forth below, however, we have decided that our CWD regulations will not preempt State and local laws and regulations that are more restrictive than our regulations.

First, while the herd certification program and the requirements for interstate movement of farmed and captive cervids in the July 2006 final rule, as amended by this document, are supported by the best available science, we recognize that the methods for mitigating the disease are evolving; our current methods are limited by the current state of scientific knowledge. As such, it is not possible to create a uniform set of proven mitigations for CWD. We have determined that, in such circumstances, States should be able to implement more restrictive laws and regulations if they determine such laws and regulations to be appropriate.

For example, one commenter stated that States should be able to impose more restrictive requirements or prohibitions on the interstate movement of farmed or captive cervids because there is currently no practical live-animal test validated for white-tailed deer, in contrast to other diseases mentioned in the March 2009 proposed rule, such as tuberculosis and brucellosis. The lack of a live-animal test creates uncertainty about the disease-free status of herds, or animals moved interstate from herds.

We agree the lack of a live-animal test for CWD creates uncertainty. Our approach to establishing a greater degree of certainty involves monitoring all herds enrolled in the CWD Herd Certification Program for at least 5 years before allowing animals from those herds to move interstate. This approach uses surveillance over time to increase the certainty that animals from a herd are low risk; 5 years of testing all cervids that die in a herd without finding a CWD-positive animal provides substantial assurance that CWD is not present in the herd. However, surveillance in the CWD Herd Certification Program does not provide the same level of certainty with respect to the disease status of an individual animal that a live-animal test could provide. Allowing States to impose more restrictive requirements than our requirements acknowledges that this uncertainty exists.

Another commenter stated that the industry in the commenter's State considers that State's CWD program to be a benchmark after which other States' programs could be modeled. The commenter stated that industry recognizes that a Federal rule is needed for interstate movement of registered animals, but expressed concern that not allowing the State to impose stricter requirements in some situations might not be appropriate.

We agree that States can serve as laboratories for different regulatory approaches. In the uncertain scientific environment surrounding CWD, we welcome any additional evidence we can gather about the effectiveness of regulatory approaches. Our decision to allow States to impose requirements that are more restrictive than our regulations will allow States to create and experiment with regulatory programs.

The other reason to allow States to develop and enforce laws and regulations that are more restrictive than our regulations is, as we noted above, inherent in the fact that our program objective has changed to reflect changes in conditions. When the objective of a program is to eliminate a disease, we impose requirements that are sufficient to achieve that objective, based on the best available science. If a State were to impose requirements that are more restrictive than our requirements in such a case, the additional State requirements would impede interstate commerce without advancing the objective of the program.

However, the objective of our regulations is now to assist in controlling CWD in farmed and captive cervids, rather than eliminating CWD in farmed and captive cervids. Eliminating CWD from farmed and captive cervids is not practical given the persistence of CWD in wild cervid populations and our current lack of knowledge about how CWD may be transmitted between wild cervid populations and farmed and captive cervids. Other gaps in our scientific knowledge we have about CWD also impair our ability to achieve eradication, including the lack of certainty regarding the disease status of individual live animals, the lack of knowledge regarding how the disease is transmitted between wild and farmed or captive cervid populations, and our lack of knowledge regarding effective cleaning and disinfection measures for premises on which CWD has been found. (For example, we do not know any cleaning and disinfection measures that allow us to effectively address the persistence of CWD in substrates.)

For these reasons, the CWD Herd Certification Program and our interstate movement restrictions are designed to prevent the spread of CWD, rather than to eliminate it. Allowing States to establish more restrictive laws and regulations on farmed and captive cervids recognizes that States may want to establish a higher level of protection against the disease than the Federal program is designed to provide.

In this final rule, we are also establishing provisions for the interstate transportation of farmed or captive cervids through States in response to comments. These provisions will preempt State and local laws and regulations in addition to or different

than the requirements set forth in this final rule. These provisions allow owners of farmed or captive cervids (including animals captured from wild populations for interstate movement and release) to move those cervids, without unloading and while en route to another State, through States that prohibit or restrict the entry of farmed or captive cervids into their State.

Specifically, 15 commenters asked us to address the issue of State bans or restrictions on the interstate movement of farmed or captive cervids through a State to another State of destination. The commenters stated that States should not have the right to ban interstate movement through a State to another State when the farmed or captive cervids being moved meet the entry requirements of the destination State. Ten of the commenters specifically recommended defining ''entry'' and ''import'' as being received into a specific State and excluding from State regulation any movement through States that are not receiving farmed or captive cervids.

We agree with these commenters that the regulations should provide for movement through a State, even if the State bans movement of farmed or captive cervids into the State. While, as noted, our scientific knowledge about CWD is limited, the scientific knowledge we have suggests that CWD is not highly infectious. In general, the movement of animals through a State without unloading poses a low risk of spreading CWD, and the regulations in part 81 ensure that the animals moved interstate will themselves present a low risk of being infected with CWD.

Not providing for movement through States that ban or further restrict the entry of farmed or captive deer, elk, or moose would also raise several issues. The rerouting required to avoid such States may make transportation of farmed or captive cervids economically unfeasible. Even if such transportation is economically feasible, the additional time necessary to traverse a lengthy route may raise animal health or welfare issues for the cervids being transported; the cervids would need regular water, feed, and rest, as required for all livestock under the Twenty-Eight Hour Law (49 U.S.C. 80502). Captive cervids that needed to be offloaded for such purposes would not be easy to confine and to reload onto a conveyance. Given the low risk associated with this type of movement, we have determined that it is appropriate to provide for the movement of farmed or captive cervids through States and localities whose laws or regulations on the movement of captive cervids are more restrictive than the regulations in part 81.

In this final rule, a new § 81.6 indicates that State and local laws and regulations that are more restrictive than the regulations in part 81 are not preempted by part 81, except for the regulations regarding interstate movement through a State to another State in § 81.5.

Section 81.5 sets out the following provisions for farmed or captive deer, elk, or moose to move through a State or locality whose laws or regulations are more restrictive than those in part 81 to another State:

- The farmed or captive deer, elk, or moose must be eligible to move interstate under § 81.3. This section requires animals that move interstate to be from Certified herds, to be from wild populations that have been documented to be low risk for CWD, or to be moved directly to slaughter. It also provides for movement of research animals under permit, which will only be issued if the movement authorized will not result in the interstate dissemination of CWD. Thus, movement of animals under § 81.3 already presents a low risk of spreading CWD, even without considering the low risk associated with the pathway of transportation through a State.
- The farmed or captive deer, elk, or moose must meet the entry requirements of the destination State listed on the certificate or permit accompanying the animal.
- Except in emergencies, the farmed or captive deer, elk, or moose must not be unloaded until their arrival at their destination. Emergencies might include a breakdown of the vehicle transporting the deer, elk, or moose or weather conditions that make it impossible or extremely unsafe for a vehicle to continue along its scheduled itinerary.

We recognize that the decision not to preempt State and local laws and regulations with respect to CWD, except for deer, elk, and moose that are moved through a State, represents a change in our preemption policy, as expressed in the July 2006 final rule and the March 2009 proposed rule. We believe the change is appropriate for the reasons discussed above. However, because the public has not previously had a chance to comment on this change in policy, we are requesting comment on our new policy, as well as the specific provisions of § 81.5. We will consider comments we receive during the comment period for this interim final rule. After the comment period closes, we will publish another document in the **Federal Register.** The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Although we may make changes based on comments, the rest of the Background section of this document assumes that the preemption policy described above will continue to be effective.

Changes in the March 2009 Proposed Rule That Are Now Unnecessary

Because the objective of the CWD program have changed from elimination of the disease in farmed and captive cervids to control of the spread of the disease, several changes we proposed in March 2009 are no longer necessary:

Allowing States to prohibit entry of cervids for reasons unrelated to CWD. As noted earlier, we proposed to add to the July 2006 final rule a new § 81.5 indicating that State laws and regulations prohibiting the entry of farmed or captive cervids for reasons unrelated to CWD are not preempted by 9 CFR part 81. Since we are allowing States to prohibit the entry of farmed or captive cervids for reasons related to CWD, except with respect to movement through a State, the proposed section is no longer necessary.

Allowing States to prohibit entry of farmed or captive cervids based on proximity to CWD in wild deer, elk, or moose. We proposed to add to the July 2006 final rule provisions allowing States to refuse entry to farmed or captive cervids that originated from premises within 25 miles (40 km) of a federally or State-identified case of CWD in wild deer, elk, or moose, or within 25 miles of an area, as defined by APHIS and the State, where CWD has become established in wild deer, elk, or moose. As States may now impose such requirements, as well as other additional requirements, under § 81.6, we are not including these changes in this final rule.

Requiring ongoing wildlife surveillance as part of an Approved State CWD Herd Certification Program. In the July 2006 final rule, paragraph (a) of § 55.23 lists aspects of a CWD program that the Administrator will evaluate when determining whether a State CWD program qualifies as an Approved State CWD Herd Certification Program. We proposed to add to this list that the Administrator will evaluate whether the State conducts monitoring and surveillance activities to estimate geographic distribution of CWD in the State. This requirement was included to ensure that States had data allowing them to certify that farmed or captive cervids moved interstate did not originate from premises in proximity to a known CWD outbreak, to support the

proximity provisions in the March 2009 proposed rule. Since we are not including those provisions in this final rule, specifically requiring that States conduct monitoring and surveillance activities to estimate geographic distribution of CWD in the State is no longer necessary.

However, we continue to encourage States to conduct monitoring and surveillance for CWD in wildlife populations. Knowledge of the geographic distribution of CWD in wildlife that is generated through wildlife surveillance is valuable to both wildlife and domestic animal managers. The information helps both groups assess risk of animal movement and helps in other disease prevention and management planning.

In addition, for deer, elk, or moose captured from a wild population for interstate movement and release, the regulations in § 81.3(b) require the certificate accompanying those animals to document that the animals are from a source population that is low risk for CWD, based on a CWD surveillance program that is approved by the State Government of the receiving State and APHIS. States that want to facilitate such movement will need to have a CWD surveillance program in place for their wild populations.

In the past, APHIS has supported surveillance for CWD in wild cervid populations through cooperative agreements with State wildlife agencies and tribes. We hope that we will be able to continue to support wildlife surveillance. We anticipate that APHIS will receive flat or declining budgets for the next several years, which would likely substantially limit our support. Nonetheless, we will work with State wildlife agencies and tribes to develop more efficient and effective surveillance strategies for the future.

Not allowing herds to participate in the CWD Herd Certification Program based on proximity to CWD in wild deer, elk, or moose. In the July 2006 final rule, paragraph (a) of § 55.22, ''Participation and enrollment,'' sets out procedures for owners to enroll and participate in the CWD Herd Certification Program. In the March 2009 proposed rule, we proposed to amend § 55.22(a) to state that an application for participation may be denied if APHIS or the State determines that the applicant's herd was established after a subsequent final rule becomes effective on a premises within 25 miles of a federally or State-identified case of CWD in wild deer, elk, or moose, or within 25 miles of an area, as defined by APHIS and the State, where CWD has become established in wild deer, elk, or moose. The requirement was proposed in conjunction with the other proximity provisions that we are not including in this final rule. In the proposal, we also stated that, while the level of risk associated with maintaining a CWD herd in proximity to known occurrences of CWD in wild cervids is unknown, the proposed prohibition on establishing new herds in proximity to CWD occurrences in the wild would add to the effectiveness of CWD control.

However, commenters presented information indicating that the 25-mile distance was not necessarily enough to mitigate the risk of exposure to CWD, given the distribution and variation in home ranges of wild deer, elk, and moose, meaning that the standard might not effectively mitigate whatever risk may exist. Given that the primary impetus for potentially denying the application for participation of a herd in proximity to known occurrences of CWD in wild herds was to support the other proximity provisions in the March 2009 proposed rule, and given the information presented by the commenters, we are not including this provision in the final rule. However, under this final rule, States may choose to address the risk associated with premises in areas in proximity to CWD cases or areas where CWD has become established by placing their own restrictions on the establishment of premises in such areas, based on local conditions.

Finally, one commenter opposed preemption and specifically stated that States should be allowed to require written approval from the State veterinarian for any consignment of deer, elk, or moose to enter the State before it is moved interstate from its premises of origin. Another commenter generally asked us to require the State agency overseeing captive cervids in the receiving State to be notified when captive cervids are moved to a State. Our decision to allow States to impose additional requirements on the entry of captive cervids beyond those in our regulations allows for States to keep such requirements in place, or to impose them, as they determine to be necessary.

Overlap of Federal and State Requirements

Two commenters stated that the March 2009 proposed rule included various provisions for inspections and certification requirements that are duplicative of their State's rules and regulations. The commenters asked whether the APHIS requirements are in addition to State regulations or if the State's current practices would satisfy the requirements. The commenters expressed concern about the burden that could result if the APHIS requirements were being imposed in addition to State requirements.

Another commenter requested that APHIS consider exemptions from Federal requirements for States which, now or in the future, develop comprehensive, risk-based regulatory CWD policies pertaining to confined cervid populations.

Several States already enroll deer and elk herd owners in programs based on these principles. We believe that it is better to build a Federal program that recognizes State activities than to replace them with a strictly Federal program. Therefore, the July 2006 final rule allows APHIS to recognize State regulations and procedures as satisfying APHIS requirements. We believe the States that have or are developing CWD programs can readily incorporate our proposed minimum criteria with few or no changes to State programs.

Specifically, in § 55.23, paragraph (a) sets out the elements necessary for a State to have an Approved State CWD Herd Certification Program. This paragraph sets general standards but does not prescribe the means for meeting them. If a State's CWD program meets the minimum requirements in § 55.23(a), we do not impose any further requirements on the State. Thus, State practices can satisfy APHIS requirements under the regulations.

It is not necessary to exempt States that have or develop comprehensive, risk-based CWD regulatory policies from Federal requirements; such a regulatory policy would be recognized under § 55.23(a) as an Approved State CWD Herd Certification Program. An Approved State CWD Herd Certification Program allows herds in that State that reach Certified status to move their animals interstate. Under this final rule, any farmed or captive cervids moved interstate will have to come from an Approved CWD Herd Certification Program, with limited exceptions.

Definition of Official Animal Identification

The July 2006 final rule included in §§ 55.1 and 81.1 a definition of *official animal identification.* In the March 2009 proposed rule, we proposed to amend this definition to indicate that the CWD program allows the use of either the eight-character or nine-character identification number format for cervids.

One commenter stated that approval for the animal identification tag in the commenter's State has been requested several times since 2008, without

confirmation that the request has been received or is being considered. The commenter noted that the tag in question is a nine-character tag. Another commenter expressed general concern that our approval of State tags has not been forthcoming.

Until the publication of this final rule, there has been no CWD Herd Certification Program in place in the regulations, and we have been concentrating on determining the appropriate objectives and provisions of the overall program. We plan to evaluate State animal identification for use as official identification as part of the CWD Herd Certification Program implementation process. We will reach out to these commenters to ensure that we are addressing their concerns, and we invite others who may have similar concerns to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Definition of National Uniform Eartagging System

The definition of *official animal identification* in the July 2006 final rule referred to the National Uniform Eartagging System as one of three systems of nationally unique animal identification that fulfilled the requirements of the definition. In the March 2009 proposed rule, we included a definition of *National Uniform Eartagging System* to help provide more information about this system, supporting the goal of standardizing animal identification and increasing animal traceability.

Several commenters expressed concern that State-approved animal identification might not be recognized as official animal identification under the definition of *National Uniform Eartagging System.* These commenters stated that all State-approved official identification that is in use should be approved, and updates to animal identification systems should be required for new herds only.

The proposed *National Uniform Eartagging System* definition did not affect the definition of *official animal identification* in the July 2006 final rule. The National Uniform Eartagging System is a numbering system, not a tagging system. With respect to identification devices, animals in herds enrolled in the CWD Herd Certification Program must have at least two forms of animal identification attached to the animal, approved by APHIS. As stated above, we will evaluate State animal identification systems for approval as official identification as part of the implementation process for the CWD Herd Certification Program.

Definition of Premises Identification Number

The July 2006 final rule defined *premises identification number (PIN)* in §§ 55.1 and 81.1 as a unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The PIN is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. The definition stated that the PIN may consist of:

- The State's two-letter postal abbreviation followed by the premises' assigned number; or
- A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

The definition of *official animal identification,* in turn, allows the use of a premises-based number system in which an official PIN is combined with a producer's livestock production numbering system to provide a unique identification number.

In the March 2009 proposed rule, we proposed to amend this definition by, among other things, removing the option to use the State's two-letter postal abbreviation followed by the premises' assigned number as a PIN. Under the proposed rule, PINs issued after the effective date of a final rule following the March 2009 proposal would have had to consist of the seven-character alphanumeric code with the characteristics described above.

Four commenters raised concerns about this change. One stated that producers who use eartags numbered with a premises-based number system containing PINs with State two-letter postal abbreviations and unique identifiers can now purchase eartags from the company of their choice without the involvement of an accredited veterinarian. Under the proposed rule, the commenter stated, such purchases would have to involve an accredited veterinarian, which would make the system unnecessarily cumbersome.

Two commenters expressed concern that all currently used tags would need to be replaced. These commenters stated that the State identifier was preferable. One stated that the State authority issuing identifiers can more easily add to and update the system than the Federal Government can. The other stated that the State identifier can be tracked and updated better than a Federal identifier. A third commenter stated that, when State identifiers are used, purchasers can easily identify the State of origin of an animal, and stated that tracebacks are better handled by State veterinarians than by searching through a huge grouping of animals from all States.

It is important to note that the proposal would not have required any currently issued tags to be replaced; it only would have required that all new PINs conform to the seven-character alphanumeric standard, thus requiring newly issued official identification to reflect the new PINs. In addition, we do not agree that using the seven-character alphanumeric standard poses any difficulties for verification of origin, traceback, or modifications to the system; the seven-character alphanumeric standard has been in use for many years without encountering these problems. Finally, the changes we proposed would not have required producers to purchase tags from an accredited veterinarian.

However, we appreciate that some States may want the flexibility to continue using their PIN issuance system in the future. As long as PINs issued by States meet the other standards in the revised definition of *PIN,* we do not anticipate any problems with allowing States to do so. Therefore, in this final rule, we are including the option from the June 2006 final rule to use a PIN that consists of the State's two-letter postal abbreviation followed by the premises' assigned number.

Credit for Herd Participation in States Without Approved State CWD Herd Certification Programs

In the July 2006 final rule, paragraph (a) of § 55.22 sets out procedures and conditions for herd owner participation and enrollment in the Federal CWD Herd Certification Program. Paragraph (a)(1)(ii) sets out the procedures and conditions for enrollment of herds that are in a State that does not have an Approved State CWD Herd Certification Program.

Under paragraph (a)(1)(ii)(B), if APHIS determines that the herd owner has maintained the herd in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, the enrollment date will be the first day that the herd participated in such a program. However, in such cases, the enrollment date may not be set at a date more than 2 years prior to the date that APHIS approved enrollment of the herd. This type of constructed enrollment date will be unavailable for herds that

apply to enroll 1 year after the implementation of the CWD program, and herds that apply to enroll after that date will have an enrollment date of the date APHIS approves the herd participation.

In the March 2009 proposed rule, recognizing the delays in implementing the CWD program, we proposed to grant an additional year of credit for herds that had been maintained in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, for a total of 3 years' credit.

Four commenters stated that we should allow for 5 years' credit to be granted to herds whose owners have maintained them in a manner that substantially meets the conditions specified in § 55.23(b). Doing so would allow those herds to enter the program in Certified status and thus be eligible to move interstate. One commenter stated that providing a maximum of 3 years' credit would essentially shut down the industry for 2 years and that States have written rules that provide adequate CWD surveillance status and disease control in their captive cervids, allowing for the interstate movement of animals with an extremely low risk of CWD.

Three commenters stated that providing only 3 years' credit for herd owner participation outside the context of an Approved State CWD Herd Certification Program discriminates against persons or farms that have a proactive approach to testing and recordkeeping but have a laggard or nonexistent CWD program in their States. These commenters stated that herds meeting the standards of the certification program for any time period should be enrolled in the Federal CWD Herd Certification Program on the date they began meeting such standards, as shown in accurate herd records.

We appreciate the efforts of herd owners who maintain their herds in a manner that substantially meets the conditions specified in § 55.23(b) outside the context of a State CWD program, and we realize that limiting credit for such efforts to 3 years will temporarily prevent the interstate movement of animals from such herds until the herds can achieve Certified status. However, as discussed in the June 2006 final rule, only State programs have the extensive infrastructure, enforcement mechanisms, and record systems that verify participation and support reasonable confidence that herds in these programs can fully meet the program requirements over long periods of time. (In response to the first commenter, if a State has put in place adequate rules for CWD surveillance and disease control, that State's CWD program would be eligible for recognition as an Approved State CWD Herd Certification Program under § 55.23(a), thus allowing participating herds to receive 5 years' credit.)

While individual herd owners may also devise or join non-State programs that meet the necessary animal identification, monitoring, and other requirements, and their compliance may be documented through herd records and animal records in various State and market records collections, it would be very difficult to establish with confidence that such herds comply with requirements over lengthy periods.

It should also be noted that herd owners who have been practicing CWD control and testing measures may not necessarily meet the criterion for granting credit that the herd has been maintained in a manner that substantially meets the conditions specified in § 55.23(b). We will individually review every application for enrollment credit under § 55.22(a)(1)(ii)(B) to determine whether credit should be granted.

We are making two changes to provisions involving enrollment dates in this final rule. In the July 2006 final rule, we provided in § 55.22(a)(1)(i) for herds to receive credit for having been enrolled in a State program that APHIS determines qualifies as an Approved State CWD Herd Certification Program. We indicated that such a ''constructed enrollment date'' would be unavailable for herds that applied to enroll 1 year after the effective date of the final rule.

However, such a determination would be contingent on a State applying for approval of its CWD program. If a herd participated in a CWD program that was eventually determined to qualify as an Approved State CWD Herd Certification Program, but that State did not apply to have its program approved within 1 year of the effective date of this rule, the herd owner would receive no credit for participation due to the State's inaction, despite the herd having been maintained consistent with the CWD Herd Certification Program. Accordingly, we are removing the provision in paragraph (a)(1)(i) that limited the availability of constructed enrollment dates. This will allow States to become approved at any time after the effective date of this final rule; herds enrolled and in good standing in their State program will maintain their State enrollment date in the Federal CWD Herd Certification Program provided they continue to meet our requirements.

Similarly, we are removing the provision limiting constructed enrollment dates in paragraph (a)(1)(ii)(B), which indicated that herds maintained in a manner that substantially meets the conditions specified in § 55.23(b) would receive credit for up to 3 years of program participation only if they apply to enroll within 1 year after the effective date of this final rule. There is no reason to deny a herd owner credit based on the date of enrollment if the herd has been maintained in a manner that substantially meets the conditions specified in § 55.23(b).

We are also switching the order of paragraph (a) of § 55.23, which discusses owner participation, and paragraph (b), which discusses State participation. As the provisions for owner participation discuss State participation, switching the order of these paragraphs will result in a more logical presentation.

Movement of Animals Into CWD-Positive, CWD-Exposed, and CWD-Suspect Herds

In the July 2006 final rule, paragraph (a) of § 55.23 lists aspects of a CWD program that the Administrator will evaluate when determining whether a State CWD program qualifies as an Approved State CWD Herd Certification Program. Paragraph (a)(4) stated that the Administrator will evaluate whether the State has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit. (Movement under permit could include research animal movement, as provided in § 81.3(d) of the July 2006 final rule, or movement from a breeding herd to a shooter facility.)

In the March 2009 proposed rule, we proposed to amend this paragraph to require that States allow no movement of animals into such herds. We stated that such movement affects the CWD indemnity program, which makes indemnity available for eligible animals based on the inventory at the time the movement restrictions are imposed. An increase in the size of a herd under restriction due to CWD also causes a corresponding increase in the program resources devoted to the herd, and in the amount of work for Federal and State representatives working with the herd. For instance, if animals from several additional herds are added to a CWD-exposed or CWD-suspect herd that is later found positive for CWD, those additional herds must also be evaluated during traceback as possible sources of CWD. Also, increasing the herd size potentially increases the total number of

infected animals, and the risk of CWD spread (e.g., more animals means more opportunities for an animal to escape confinement).

Several commenters stated that owners of some CWD-positive, CWD-exposed, or CWD-suspect herds that are part of hunting operations have in the past added animals to their herds and need to continue adding animals in order to remain in business. These commenters stated that prohibiting movement of farmed or captive cervids to these farms would require these farms to breed all their animals, which in turn would require increasing the density of their cervid populations, to provide for both breeding cows and their male offspring. This would greatly increase the cost of doing business for these herds.

A few owners of such herds stated that they would be put out of business if they could not add animals to their herds. One expressed concern that meat producers might be affected by such a restriction as well.

Two commenters expressed concern that Certified herds might lose a valuable business opportunity if sales to herds with CWD-positive, CWD-exposed, and CWD-suspect animals were prohibited.

With respect to traceback, two commenters stated that epidemiologic investigations could be conducted from herds containing CWD-positive, CWD-exposed, or CWD-suspect animals in the same way that they are conducted to and from other herds.

With respect to transmission from the facility containing the CWD-positive, CWD-positive, CWD-exposed, or CWD-suspect animals, one commenter stated that State herd plans implemented at such facilities typically require double fences and double barriers designed to prevent contact between the farmed or captive cervids in the facility and wild cervids. Another commenter stated that the risk associated with escape of animals from a large herd containing CWD-positive, CWD-exposed, or CWD-suspect animals does not change when animals are added to that herd.

With respect to indemnity, three commenters suggested that animals introduced into herds containing CWD-positive, CWD-exposed, or CWD-suspect animals should not be eligible for indemnity. Another commenter suggested that we allow herds to apply for indemnity only within a certain timeframe following the identification of a CWD-positive, CWD-exposed, or CWD-suspect animal from the herd.

Based on these comments, we are not including this proposed change in this final rule. Our intent is to provide flexibility in the regulations to allow the operations described by commenters to remain economically viable. However, we note that, under this final rule, States will be allowed to restrict or prohibit the addition of animals to herds containing CWD-positive, CWD-exposed, or CWD-suspect animals. We also note that, when paying indemnity for a whole herd, we only make indemnity available for the animals that were part of the herd at the time we confirm the CWD diagnosis that leads us to pay indemnity for a herd.

We agree that epidemiologic investigations can be conducted from and to animals added to herds containing CWD-positive, CWD-exposed, or CWD-suspect animals, in the same way epidemiologic investigations are conducted in other circumstances. However, the owners of Certified herds need to be aware that selling animals to herds containing CWD-positive, CWD-exposed, or CWD-suspect animals (or selling to a third party who may sell to such herds) increases their risk of being linked to CWD-positive animals and herds. Owners of Certified herds that sell animals to herds containing such animals need to make sure that they have accurate, complete, and up-to-date inventories and records. Without such inventories and records, it will be difficult to determine with reasonable confidence whether a Certified herd was a source of infection, which could result in movement restrictions being placed on that herd and the suspension or loss of the herd's status in the CWD Herd Certification Program. We will work with herd owners and States to ensure that all herd owners are aware of the type of information we need to facilitate successful epidemiological investigations.

With respect to additions to herds containing CWD-positive, CWD-exposed, or CWD-suspect animals increasing the density of the herd and therefore increasing the risk of spreading CWD to neighboring or surrounding populations, we agree that there are mitigations available for this risk, such as the double fencing that the commenters cite. For herds that are enrolled in the CWD Herd Certification Program, we would require such mitigations to be contained in a herd plan. Again, under this final rule, States will have the option to require such mitigations when animals are moved into herds containing CWD-positive, CWD-exposed, or CWD-suspect animals. States can also ban such movement altogether.

Herd Inventories

In the July 2006 final rule, paragraph (b) of § 55.23 lists responsibilities of herd owners who enroll in the CWD Herd Certification Program. Paragraph (b)(4) describes requirements for herd recordkeeping and annual inventories. Among other things, paragraph (b)(4) requires the owner to allow an APHIS employee or State representative access to the premises and herd, upon request, to conduct an annual physical herd inventory with verification reconciling animals and identifications with the records maintained by the owner. The owner must present the entire herd for inspection under conditions where the APHIS employee or State representative can safely read all identification on the animals. The owner will be responsible for assembling, handling and restraining the animals and for all costs incurred to present the animals for inspection.

In response to comments on the July 2006 final rule, we proposed in March 2009 to make changes to the annual inventory requirements to address their practicality. The changes we proposed were intended to clarify our intention to conduct an actual physical inventory of assembled animals when an APHIS employee or State representative finds it to be needed for program purposes. However, an actual physical inventory is not always necessary.

We proposed to indicate that the APHIS employee or State representative may order either an inventory that consists of review of herd records with visual examination of an enclosed group of animals or a complete physical herd inventory with verification to reconcile all animals and identifications with the records maintained by the owner. In the latter case, we proposed to require the owner to present the entire herd for inspection under conditions where the APHIS employee, State representative, or accredited veterinarian can safely read all identification on the animals. The proposed rule indicated that inventory of a herd would be conducted no more frequently than once per year, unless an APHIS employee, State representative, or accredited veterinarian determines that more frequent inventories are needed based on indications that the herd may not be in compliance with CWD Herd Certification Program requirements.

Ten commenters opposed removing the requirement for an annual physical herd inventory. Some cited specific issues. Two cited past experience in inspecting farmed or captive cervid herds as indicating that, without annual physical inspections, it is difficult to ensure that herds are in compliance.

One stated that in the absence of annual inspections, recordkeeping issues escalate rapidly. The other stated that we should require two inspections per year, one physical and one nonphysical inventory.

Another commenter stated generally that the physical inventory requirement will help to ensure that adequate records are maintained, which will be vital in doing any necessary trace when an outbreak of CWD in a captive cervid herd occurs.

Another commenter stated that, when two of the acceptable forms of unique identification that may be used include microchips and tattoos, there can be no substitute for handling the animals if their true identity is to be verified.

The provisions we proposed give APHIS employees and State representatives the ability to require an annual complete physical herd inventory. The proposed provisions simply provide for an inventory of records as another option if no changes in the circumstances of a captive cervid herd indicate that a complete physical herd inventory is necessary. If an inventory indicates that a specific herd is not complying fully with the requirements of the program, the proposed regulations allow for more frequent physical inventories, at the discretion of APHIS employees and State representatives.

We have determined that a review of herd records will be adequate for an annual inventory, assuming that the herd owner maintains adequate records and that there have been no major changes in the composition of the herd. In addition, three commenters stated that physical inventories impose a significant financial impact on producers, suggesting that, to the extent possible, complete physical herd inventories should be conducted no more often than necessary.

Under this final rule, States have the option of requiring more frequent physical inventories for all herds in their States.

One commenter stated that a complete physical herd inventory should be required only when there is sufficient reason to expect that poor records are being kept.

We disagree. Although poor recordkeeping would be one reason we might require a complete physical herd inventory, there are other reasons as well. For example, if the facility containing the herd had experienced a fence breach, we might conduct a physical inventory. Large movements of animals in or out of the herd may result in enough uncertainty with respect to recordkeeping to warrant a physical inventory. Finally, physical inventories should be performed at intervals of no more than 3 years in order to ensure that recordkeeping is accurate. There may be other reasons to perform physical inventories as well.

In the March 2009 proposed rule, we stated in the Background section that complete physical herd inventories would usually be several years apart; we did not propose to include any provisions regarding the frequency of physical inventories in the regulatory text. To communicate our expectations more clearly, we are adding in this final rule a requirement that a complete physical herd inventory be performed for all herds enrolled in the CWD Herd Certification Program no more than 3 years after the last complete physical herd inventory for the herd.

In the Background section of the proposed rule, we stated that a physical assembly would be required at the time a herd is enrolled in the Federal-State cooperative CWD program, in order to provide a reliable baseline record for the herd's participation. Several commenters asked questions regarding whether inventories or inspections required by States could satisfy the requirement for an initial complete physical herd inventory. Twelve commenters stated that an initial physical inventory should only be required for those herds entering the CWD program that do not have a baseline record already on file with their State regulatory agency. Another commenter stated that it seems redundant and costly to require a physical inventory if a herd is already enrolled in a State CWD program. Another commenter stated that the requirement for an initial physical inventory should apply to new breeders only and not to existing breeders. One commenter asked whether herds that are enrolled in a compliant State CWD Herd Certification Program but have never had a physical inventory need to have a physical inventory done retroactively.

In order to provide a reliable baseline record for the herd's participation, a herd on which a complete physical herd inventory had never been performed would need to undergo a physical inventory before beginning participation in the Federal CWD Herd Certification Program. However, we would accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the enrollment date of the herd as fulfilling the requirement for an initial physical inventory. Such inventories might be performed as part of an official herd test for tuberculosis or brucellosis, or as part of a State CWD Herd Certification Program.

We are making two changes related to this issue. To make our expectations clear, we are indicating in the regulations that a complete physical herd inventory must be performed at the time a herd enrolls in the CWD Herd Certification Program. We are also providing that APHIS may accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the herd's date of enrollment in the CWD Herd Certification Program as fulfilling the requirement for an initial inventory. We would not accept such an inventory if the inventory did not appear to provide an accurate and complete accounting of the animals in the herd, or if the composition of the herd had changed substantially since the inventory was performed (for example, with large additions to or sales from the herd).

One commenter asked whether inventories or inspections required by a State could satisfy the requirement for continuing inventories. In the commenter's State, unrestrained inventories are performed yearly with record verification.

We would accept a yearly State inventory of a herd in the Herd Certification Program as fulfilling this requirement, as it would be conducted by a State representative. The inventory would have to meet the other requirements of paragraph (b)(4). We will work with States as we implement the CWD Herd Certification Program to establish inventory procedures, where necessary. However, an inventory consisting of record verification would not satisfy the requirements for a physical inventory at the time of enrollment and once every 3 years thereafter.

In the Background section of the proposed rule, we stated that the proposed changes should also make it possible in many cases to plan the timing of a physical assembly of a cervid herd for inventory so that it is coordinated with testing for brucellosis and tuberculosis. We noted that, to maintain a herd's Certified status with regard to brucellosis, or its Accredited status with regard to tuberculosis, the herd must be retested for the relevant disease every 21 to 27 months under current brucellosis and tuberculosis regulations.

Several commenters emphasized that, to have a successful program with producer buy-in, complete physical herd inventories should coincide with other industry animal health programs.

These commenters stated that the recertification frequency for cervids in the tuberculosis and brucellosis programs is 33 to 39 months.

The commenters are correct that the frequency at which captive cervid herds that are accredited for tuberculosis are tested for that disease is 33 to 39 months, under § 77.35(d). However, in the Uniform Methods and Rules for brucellosis in cervids,[3] all test-eligible animals in Certified Brucellosis-Free herds are required to have a negative test at intervals between 21 and 27 months. Both of these intervals may change in the future. Our intent was to indicate that there are already occasions at which the animals in a herd must be assembled, handled, and restrained, which are occasions at which a complete physical herd inventory could be conducted with minimal additional cost and disruption to the herd.

Commenters raised other concerns with respect to timing. Several commenters stated that whole herd assembly for handling should be consistent and within the established husbandry timeframe practiced by the industry for the species in question. One commenter stated that physical inventories inspections should be limited to those periods where animal health will not be endangered, e.g., cows in late stage of pregnancy and bulls in velvet or hard antler. Two commenters stated that complete physical herd inventories could be done during weaning and/or breeding. One commenter noted generally that there are many times during a year that it would be dangerous to handle deer.

We agree with these commenters that these issues should be taken into account when scheduling a complete physical herd inventory. We already take these issues into account when scheduling whole-herd tests for brucellosis and tuberculosis in farmed or captive cervids. In all cases, when scheduling a complete physical herd inventory, we will work with the owner of the herd to find a time that takes all relevant factors into account. We are providing a 3-year span in which a physical inventory may be conducted in order to allow for such flexibility of scheduling.

Several commenters stated that, if herd records indicate that a specific number of animals are in a pen, and the inspector can verify that amount, there should be no need for a visual inspection of each tag.

We disagree. Records could indicate that the number of animals in a pen was correct, but without verifying that the identification on each animal matches that reflected in the records, we cannot be certain that the animals in the pen are the same as the animals in the records. Another commenter noted that most forms of identification will not be readable from any distance unless the animal is restrained, which makes a hands-on physical inventory necessary.

The regulations in this final rule do provide for an inventory based on records, but we will need to conduct complete physical herd inventories occasionally, for the reasons discussed earlier.

Several commenters stated that whole herd inventories should be conducted during routine herd health procedures. If APHIS or another agency orders a physical inventory, these commenters stated, then APHIS or the ordering agency should be responsible for the costs, risks, and animal losses associated with handling the animals in the herd.

As discussed earlier, we will make every effort to conduct complete physical herd inventories at times coincident with whole-herd testing or other times when the herd is being restrained for another purpose. However, we will not guarantee that all complete physical herd inventories will be conducted at such times; when there are reasons to suspect that recordkeeping is deficient, for example, we may need to conduct a complete physical herd inventory in order to provide assurance that the herd is in compliance with the CWD Herd Certification Program. In that case, owners will be responsible for all costs incurred to present the animals for inspection, a provision of the July 2006 final rule that we did not propose to change in March 2009. The CWD Herd Certification Program is a voluntary program for herd owners who wish to avail themselves of the opportunity presented by the program to demonstrate that the animals in their herds are low-risk for CWD. It is not appropriate to pay costs of participation in this voluntary program.

We note that keeping accurate, complete, and up-to-date records will make APHIS employees more confident that an inventory conducted by reviewing records, as opposed to a physical inventory, may be sufficient to fulfill the yearly inventory requirement.

Several commenters stated that the frequency of complete physical herd inventories must be consistent with animal health programs for other species, and that currently there is no annual herd inventory required for cattle herds in the tuberculosis or brucellosis programs.

For the other programs to which the commenters refer, complete physical herd inventories are conducted at the time the whole-herd test is conducted. As discussed in this document, we plan to schedule complete physical herd inventories so that they coincide with other occasions when the herd is assembled, such as whole-herd tests for tuberculosis and brucellosis. However, unlike brucellosis and tuberculosis, there is no approved ante-mortem test for CWD, meaning that we cannot use testing to determine the health status of individual animals when they are moved interstate. Instead, we establish that animals in a herd are at low risk of being infected with CWD through surveillance over time. As the animals' low-risk status is thus tied to their membership in a herd that has undergone 5 years of surveillance without finding CWD, an annual inventory of the herd's records is necessary to validate those records. We note that the records inventory should be much less labor- and time-intensive than the physical herd inventory.

We also proposed to amend paragraph (b)(4) to include accredited veterinarians as people who can conduct a herd inventory, along with APHIS employees and State representatives. The July 2006 final rule allows accredited veterinarians to perform many other Herd Certification Program functions; allowing them to conduct inventories would be consistent with the rest of the program.

One commenter stated that States should be able to specify when and under what conditions accredited veterinarians are approved to conduct inventories. The commenter's State requires that a regulatory veterinarian conduct the first inventory; accredited veterinarians can conduct subsequent inventories.

Under this final rule, States are free to put in place requirements regarding when an accredited veterinarian is allowed to conduct a herd inventory, such as the one the commenter describes.

Several commenters expressed concern that the proposed rule did not prevent an accredited veterinarian from inventorying his or her own herd. Some of these commenters also stated that accredited veterinarians should not be able to issue certificates for the movement of animals from their own herds, as allowed by the July 2006 final rule under § 81.4.

Another commenter stated that accredited veterinarians should not be allowed to inspect their own herds to

[3] Available at *http://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/.*

determine whether they are in compliance.

We disagree that such provisions are necessary for the regulations governing the CWD Herd Certification Program. Accredited veterinarians routinely perform accredited duties on their own animals in other Veterinary Services programs. Under our regulations in 9 CFR part 161, to maintain their accreditation, accredited veterinarians must comply with the standards for accredited veterinarian duties in § 161.4. If an accredited veterinarian conducted an irregular inventory of his or her own cervid herd, we would suspend or revoke the accreditation of that veterinarian. Although our experience indicates that the commenters' concerns are misplaced, nonetheless, under this final rule, States are free to impose restrictions on what duties an accredited veterinarian performs on his or her own animals in the State's CWD program should they choose to.

One commenter requested that we add a definition of *accredited veterinarian.*

We concur that providing such a definition would improve the clarity of the regulations, particularly when other, similar parts in subchapters B and C include such a definition. Accordingly, we are adding a definition of *accredited veterinarian* to §§ 55.1 and 81.1 in this final rule. The definition indicates that an accredited veterinarian is approved by the Administrator in accordance with 9 CFR part 161 to perform functions specified in subchapters B, C, and D of 9 CFR chapter I.

One commenter stated that the annual inspection of captive cervid facilities should include participation from wildlife professionals as well as accredited veterinarians.

Wildlife professionals could conduct inventories if they were State representatives with authority over farmed or captive cervids and involved in the oversight of the CWD Herd Certification Program. We note that the commenter is a representative of a State in which the wildlife authority has jurisdiction over farmed and captive cervids, so it is likely that, in this commenter's State, wildlife professionals would conduct or assist in inventories.

One commenter recommended that we propose common inventory datasheets, allowing for States to design their own as localized issues may require some reasonable modifications.

The regulations in paragraph (b)(4) of § 55.23 already state the information that is required for an inventory: The age and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Under paragraph (a)(10) of § 55.23, States are required to maintain this information in a State database, pending the creation of the CWD National Database administered by APHIS.

In this final rule, we are amending the list of information required for each animal to include the species of the animal. This information will be useful in conducting inventories and confirming the accuracy of herd records.

One commenter noted that, in hunting preserves, there is no way possible to assemble the animals for inventory because they are lost in many acres of woodland, and there is no way to track births inside of a hunting preserve. The commenter stated that these premises should be exempt from the inventory requirements, as the animals never leave the preserve alive anyway.

Participation in the voluntary CWD Herd Certification Program will require maintenance of accurate, complete, and up-to-date herd records, and verifying those records when necessary. Such records are essential to allow a herd owner to demonstrate that animals in the herd are low risk for CWD. As discussed earlier, the CWD Herd Certification Program establishes that animals are low risk through surveillance over time, making it crucial that we know which animals are included in the surveillance. Herd owners should consider whether they can comply with the requirements of the CWD Herd Certification Program before applying to enroll in the program.

One commenter stated that the regulations should require an adequate review of facility maintenance, animal health, and regulatory compliance during the nonphysical inventory.

We do not believe it is necessary to indicate in the regulations that such a review will take place. APHIS employees and State representatives will evaluate these facility conditions during inventories, as well as at other times. If we discover that the requirements of the regulations are not being complied with, we will take appropriate action.

Confirmatory DNA Testing of Official Test Samples

In the July 2006 final rule, § 55.24 sets out provisions for determining the status of a herd of farmed or captive cervids enrolled in the CWD Herd Certification Program. Paragraph (c)(1) provides for an owner to appeal cancellation of enrollment or suspension or loss of herd status. We proposed to amend paragraph (c)(1) to provide a process by which herd owners can appeal the designation of an animal as CWD-positive, based on DNA test results.

Several commenters stated that any process for confirmatory DNA testing should include not just the current owner of an animal but also the original owner of the animal, if any. Some commenters stated that, in the event of a traceback, original owners should be allowed to submit their own samples. Two commenters stated that many herd owners conduct DNA testing on their animals at birth, allowing for the use of these records. Commenters also stated generally that many herd owners already have their animals' DNA profiled or recorded in a registry, meaning the confirmatory DNA testing process could make use of this information. Two commenters stated that owners should be allowed to keep DNA samples of animals they have sold for use in confirmatory DNA testing.

Other commenters stated that tissue for DNA testing should be required to accompany all samples sent for CWD testing, to protect previous owners who cannot submit tissues when animals are tested but who will be implicated in the event of a positive CWD test result.

We understand the concerns of the commenters that previous owners of an animal may be implicated in a traceback resulting from a CWD-positive animal, since such implication may lead to the suspension or loss of a herd's CWD status. However, the goal of the confirmatory DNA testing provisions is only to verify that the sample tested is a match for a particular animal.

The recordkeeping requirements in the regulations, if followed, will allow us to conduct tracebacks in the event of a positive CWD test result. As discussed earlier, we require an annual inventory in part to ensure that we can conduct an appropriate traceback.

Our regulations do not prevent owners of animals from retaining DNA samples of animals they sell. Sellers of animals are also free to contract with their buyers to provide that the buyers will submit a DNA sample for confirmatory testing if the animal is tested for CWD.

As discussed in the proposed rule, we have added the option of confirmatory DNA testing in response to commenters. However, we should note that we currently maintain rigorous chain-of-custody procedures for samples that are submitted for CWD testing, and we will continue to maintain these procedures

both for samples that are not accompanied by tissue for confirmatory DNA testing and those that are. We are confident that our current processes ensure that test results are correctly assigned to individual animals, as they do in other APHIS animal health programs.

We stated that our guidance on confirmatory DNA testing would allow an owner to reserve the option for confirmatory DNA testing by informing the Federal or State representative or accredited veterinarian who collects the tissues. To allow for later confirmatory DNA testing, we proposed that the person collecting the tissues would also collect from the animal some somatic tissue that contains an official identification device, along with the tissue samples routinely collected for CWD testing (brain stem, lymph nodes, etc.). Submitting tissues attached to an official identification device establishes a reliable chain of custody that allows later DNA tests to be compared to a tissue sample that verifiably comes from the owner's animal in question.

One commenter stated that the requirement to maintain an official identification device with every DNA sample is an absurd requirement designed to impede confirmatory activities, particularly if the samples are held by an independent third party. The commenter stated that APHIS itself does not require samples to be accompanied by official identification. Another commenter stated that, if an accredited veterinarian is submitting all samples, there should be no need to have tissue attached to the official identification.

The official identification device is necessary in order to ensure that there is an incontestable association between the tissue whose DNA is tested and the animal being tested. Without official identification attached to the tissue being tested, both APHIS and the owner would rely on APHIS' chain-of-custody processes to ensure that the identity of the animal is associated properly with the DNA test results of the tissue sample.

As discussed earlier, we are confident that our chain-of-custody processes are effective. However, as a request for confirmatory DNA testing indicates that the owner wants additional assurance regarding the effectiveness of those processes (including the submission of samples by an accredited veterinarian), it would not make sense to rely on that chain of custody for confirmatory DNA testing as well.

We discuss other comments related to third parties conducting CWD tests and holding samples later under this heading.

Several commenters expressed concern regarding the requirement to include somatic tissue with an official identification device. These commenters stated that it would be difficult to fulfill such a requirement, especially for male animals, where taxidermy work requires the head, shoulder, and neck areas to be left intact for the mounting process. In the trophy market, a missing piece of ear would devalue the animal. These commenters also stated that the requirement for tissue to be attached to the official identification is not practical when a microchip is the official identification device.

As explained earlier, we need an official identification device to be attached to the somatic tissue in order to establish an incontestable link between the two. The confirmatory DNA testing process is optional for owners. If owners believe that supplying the tissue necessary to conduct confirmatory DNA testing will result in an economically unacceptable devaluation of their animals, they should not choose to use this optional process.

Microchips that are used as official identification devices are designed so that some tissue adheres to the microchip. This is to prevent a person from moving an official identification microchip from one animal to another. The somatic tissue that adheres to such microchips when removed from the animal will be usable in our confirmatory DNA testing process.

As an alternative to providing somatic tissue with official identification attached, several commenters suggested that accredited veterinarians collect DNA samples for each animal during the complete physical herd inventory and store them until the animals are tested for CWD. Some of these commenters stated that such samples should be held by a third party.

Our program resources are not sufficient to allow us to build or lease space in which to store sample tissue for DNA testing for each farmed or captive cervid that is identified in a complete physical herd inventory, or to contract for such storage. In any case, using DNA samples stored by APHIS or a third party for confirmatory testing would create chain-of-custody issues, rather than resolve them.

Several commenters stated that a neutral third party should maintain the tissue to be used for confirmatory DNA testing.

Most CWD samples are tested by third-party laboratories, either State or university laboratories. These third-party laboratories are approved to conduct CWD testing under § 55.8(d). We audit third-party laboratories to make sure they comply with the standards set out in § 55.8(d).

If an owner decides that DNA testing is necessary to confirm the identity of the animal that tested positive for CWD, tissue attached to an official identification device would be used for the testing, to ensure that the brain or lymph node sample that tests positive for CWD has the same DNA as the tissue attached to the official identification device. The sample used for confirmatory DNA testing would accompany the sample of brain and lymph node tested for CWD to ensure that chain of custody is not broken.

The National Veterinary Services Laboratories (NVSL) is the only laboratory authorized to confirm a CWD-positive test result from a third-party laboratory, so any tissue to be used for confirmatory DNA testing for an animal that tested positive for CWD would have to accompany the suspect sample to NVSL from the third-party laboratory, in order to maintain chain of custody. We are planning to conduct the optional confirmatory DNA testing at NVSL or at a third-party laboratory authorized to perform such testing. The sample for CWD testing will be accompanied by the tissue for confirmatory DNA testing at all times. Therefore, the involvement of a neutral third party is not necessary and would in fact increase complications in maintaining chain of custody.

One commenter recommended that the cost of DNA testing be borne initially by APHIS, to show that positive tests truly came from the animals for which the positive test results were reported. If the association of the animal with the positive test results is confirmed, the commenter recommended, the owner's indemnity would be reduced by the cost of the testing. If the association is not confirmed, the animal would no longer be a CWD suspect and APHIS should be held responsible for all costs associated with such confirmatory testing and herd disruption. This commenter also stated that confirmatory DNA testing should be performed on all CWD-positive cervids, so as to remove the onus of possible Government error.

The commenter's recommendations are impractical in several respects. Not all herds in which animals are diagnosed as CWD-positive are subsequently depopulated, as discussed earlier in this document under the heading ''Movement of Animals into CWD-Positive, CWD-Exposed, and CWD-Suspect Herds.'' A CWD diagnosis in those herds would not result in the payment of indemnity, meaning that we could not recover the costs of

confirmatory DNA testing. Performing confirmatory DNA testing on every CWD-positive sample we receive could thus require substantial resources. In addition, as discussed earlier, providing the necessary somatic tissue attached to official identification could be difficult for some herd owners, meaning they might not want to participate in confirmatory DNA testing.

Confirmatory DNA testing is an optional service we proposed to provide, based on the requests of commenters, only when herd owners request the service. We are confident that our chain-of-custody processes are effective. We do not believe it is an appropriate use of APHIS' limited resources to pay for confirmatory DNA testing. As noted earlier, the CWD Herd Certification Program is a voluntary program for herd owners who wish to avail themselves of the opportunity presented by the program to demonstrate that the animals in their herds are low-risk for CWD. It is not appropriate to pay any of the costs of participation in this voluntary program, such as costs associated with herd disruption. In any case, disruption in the circumstances the commenter cites would be temporary, as the herd's status would be restored after the error was found.

One commenter stated that allowing for confirmatory DNA testing would be contrary to current accepted procedures that allow for the immediate depopulation of herds in the event of a serious livestock disease outbreak. The commenter stated that delays inherent in DNA retesting potentially allow for continued disease exposure both to cohort animals, but also the continued contamination of the environment; in addition, the longer depopulation is delayed, the greater the risk that animals may escape or be illegally moved.

The available scientific evidence indicates that CWD is not an acute infectious disease; typically, by the time it is diagnosed in an animal, the disease has been present on a premises for a year or more. In addition, the confirmatory DNA testing is not expected to take more than a few days. Accordingly, we have determined that the risks the commenter identifies with respect to disease spread are unlikely. As the commenter notes, any movement from a herd in which an animal has been identified as CWD-positive would be illegal; we work with our State counterparts to ensure effective enforcement of this requirement. We are making no changes in response to this comment.

However, we are making two changes to the proposed protocol in this final rule. As proposed, the protocol indicated that a Federal or State veterinarian or accredited veterinarian would collect the tissue for testing. However, we do not plan to require that a veterinarian collect samples for CWD testing, so it would be inappropriate to require that a veterinarian also collect tissue for DNA testing. Therefore, we are removing the references in the proposed rule to the persons who can collect the samples. In addition, we are clarifying that the tissue tested for comparison to a CWD sample must have been collected from the same animal.

Monitoring Period Required To Move Deer, Elk, and Moose Interstate

In the July 2006 final rule, part 81 contains restrictions on the interstate movement of farmed or captive deer, elk, and moose that are designed to prevent the spread of CWD. Paragraph (a) of § 81.3 contains general restrictions on the interstate movement of deer, elk, and moose in the CWD Herd Certification Program. Under the July 2006 final rule, during its first year of implementation, cervids would be allowed to move interstate if they have been in an approved CWD Herd Certification program, and thus subject to monitoring for CWD and other requirements, for at least 1 year. The CWD final rule increased this length-of-time requirement in succeeding years of implementation, so the time animals would have had to be in a herd certification program in order to move interstate gradually increased to 2 years, then 3, then 4, then 5 years.

In response to the petitions and many comments we received on the petitions, and based on a review of the available scientific evidence regarding the range of incubation periods for CWD, we proposed to remove the gradual escalation of the length-of-time requirement for farmed or captive deer, elk, or moose moved interstate. We instead proposed to require farmed or captive deer, elk, or moose moved interstate to be from herds that have had at least 5 years' monitoring in the CWD Herd Certification Program and have achieved Certified status. We stated that this requirement is based on our interpretation of currently available research, and we may propose to modify it in the future if additional research provides a basis for doing so.

One commenter stated that the 5-year monitoring period seems reasonable at this time, but there should be flexibility to immediately extend that period should science dictate such an extension is warranted. Another commenter stated that any regulation, Federal or State, should allow for rapid modification of such a requirement as new scientific information becomes available.

We agree. If the scientific evidence regarding the range of incubation periods for CWD advances and indicates that the 5-year monitoring requirement is either longer than necessary or not long enough, we will promptly propose appropriate changes to the regulations.

One commenter supported the 5-year monitoring requirement, but stated that there needs to be a way a new farmer can immediately achieve Certified status by purchasing a new herd from a farm or farms that are certified 5 years or more.

The regulations in § 55.24, which govern herd status, provide for the creation of a herd in the manner the commenter describes. Specifically, paragraph (a) of § 55.24 states that when a herd is first enrolled in the CWD Herd Certification Program, if the herd is composed solely of animals obtained from herds already enrolled in the program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd. Therefore, if a new farmer purchased only farmed or captive cervids from herds that have achieved Certified status, and if the new herd met the other requirements in part 55 for herd participation, that herd would enter the program at Certified status.

One commenter stated that, in 9 years of raising elk, no CWD cases have been found in his herds. The commenter currently has a small herd that was established in 2006. The commenter stated that he would like to begin selling breeding stock and hunting bulls to other ranches, but the new 5-year requirement would prevent his ranch and all other ranches from doing this.

As discussed in response to the previous comment, if the commenter's herd is composed solely of animals obtained from herds already enrolled in the CWD Herd Certification Program, he may be able to get credit for those animals' statuses that would allow him to reach Certified status and thus move his animals interstate. We believe that many cervid producers who rely on moving animals interstate for the success of their businesses have already participated in a State CWD herd certification and monitoring program for 5 years or longer, and thus would not be adversely affected by the adoption of a 5-year standard. In any case, in our review of the scientific evidence regarding the range of incubation periods for CWD, we determined that requiring 5 years of monitoring in order for animals in the CWD Herd Certification Program to move interstate

was appropriate. The commenter did not provide any evidence to the contrary.

In a related change, we proposed to add two general requirements in a new § 81.3(a) for certification of all deer, elk, and moose moved interstate, not just those in the CWD Herd Certification Program. One requirement was that no deer, elk, or moose originating from a premises that was within 25 miles (40 km) of a federally or State-identified case of CWD in wild deer, elk, or moose, or within 25 miles (40 km) of an area where CWD has become established in wild deer, elk, or moose, as defined by APHIS and the State, could be moved into a State that did not accept such animals. We are not including this requirement in the final rule for reasons discussed in the section ''Changes in the March 2009 Proposed Rule That Are Now Unnecessary.''

The other requirement, which we proposed to add as a new paragraph (a)(1), was that no farmed or captive deer, elk, or moose may be moved interstate from farmed or captive herds infected with CWD, or epidemiologically linked to herds infected with CWD within the past 5 years.

Several commenters asked us to clarify the meaning of the term ''epidemiologically linked'' in proposed paragraph (a)(1). Two commenters expressed specific concerns regarding the scenario of a Certified herd selling animals to another herd, following which CWD is discovered in the receiving herd; the commenters wanted to know whether the Certified source herd would qualify as ''epidemiologically linked'' in this case. Two other commenters asked whether, if an animal is linked through epidemiological investigation to a CWD-positive herd, but the animal in question is tested for CWD and found not to be CWD-positive, the herd containing that animal would be epidemiologically linked to the herd infected with CWD.

We understand the potential confusion associated with our use of the term ''epidemiologically linked'' in proposed § 81.3(a)(1). For herds in the CWD Herd Certification Program, we have a full description of how epidemiological linkages are investigated and how herd status may be suspended or lost in § 55.24(b), but our proposed requirement in paragraph (a)(1) would have applied to all deer, elk, and moose moved interstate.

In light of our not including the proposed proximity provisions in the final rule, we examined proposed paragraph (a)(1) and found it to be unnecessary. The regulations provide for the interstate movement of farmed or captive deer, elk, and moose in five circumstances. In each of these circumstances, it is unnecessary to require separately that the animal being moved interstate not be from a herd where CWD has been diagnosed in the past 5 years or that is epidemiologically linked to herds where CWD has been diagnosed in the past 5 years.

- *Animals in the CWD Herd Certification Program.* We proposed to require that such animals come from herds that have achieved Certified status. In order to achieve Certified status, the herd must not contain CWD-positive animals or be epidemiologically linked to a CWD-positive herd, as described in § 55.24. Therefore, having a separate requirement regarding epidemiological linkage is superfluous for these animals.
- *Animals captured from wild populations for interstate movement or release.* The July 2006 final rule requires that such an animal must have two forms of animal identification, one of which is official animal identification, and a certificate accompanying the animal must document the source population to be low risk for CWD, based on a CWD surveillance program that is approved by the State Government of the receiving State and by APHIS. As such animals do not originate from farmed or captive herds, it would be impossible to certify that they are not from a CWD-positive herd or that they are not epidemiologically linked to such a herd.

We are making changes related to the movement of animals captured for interstate movement or release in this final rule. In the July 2006 final rule, the requirements for issuance of certificates for all captive cervids in § 81.4(a) included a requirement that the certificate include a statement that the animals are from a herd that has achieved Certified status in the CWD Herd Certification Program, and must provide the herd's program status; no exception was made for animals captured from wild populations for interstate movement and release. However, it is impossible to provide that information for such animals, which is why the regulations in § 81.3(b) include the alternative requirement to document the animals' source population as low risk for CWD. We are amending § 81.4 to remove the requirement for documentation of the captured wild animals' Certified status in the CWD program. We are also making minor editorial changes to § 81.3(b) to indicate that the certificate must state that the source population has been documented to be low risk for CWD, rather than indicating that the certificate itself must provide this documentation.

- *Animals moved to slaughter.* The July 2006 final rule requires that these animals have two forms of identification and be moved interstate with a certificate. There is no need for further restriction of animals moved to slaughter based on epidemiological linkage, as animals moved to slaughter are a low-risk pathway for the spread of disease.
- *Research animals.* Such animals are moved under special permits for research purposes. It may well be valuable to move animals interstate for research that are from or are epidemiologically linked to CWD-positive herds.
- *Interstate movements approved by the Administrator.* It would be inappropriate to limit the Administrator's authority to approve interstate movement of animals to animals that are not from CWD-positive herds or epidemiologically linked to CWD-positive herds.

Therefore, we are not including proposed paragraph (a)(1) in this final rule. Section 81.3 in this final rule resembles the section as it appeared in the July 2006 final rule, except that paragraph (a), the paragraph describing interstate movement restrictions for farmed or captive deer, elk, and moose in the CWD Herd Certification Program, now indicates that such animals must come from a herd that has achieved Certified status in accordance with § 55.24. We are also not including a provision we proposed to add in § 81.4 that would have required a certificate for the interstate movement of deer, elk, or moose to include a statement that the animal being moved interstate are not from farmed or captive herds infected with CWD, or epidemiologically linked to herds infected with CWD within the past 5 years.

Certification That Deer, Elk, and Moose Moved Interstate Do Not Show Clinical Signs of CWD

In the July 2006 final rule, paragraph (a)(2) of § 81.3 requires a farmed or captive deer, elk, or moose that is moved interstate and that is from a herd in the CWD Herd Certification Program to be accompanied by a certificate issued in accordance with § 81.4 that identifies its herd of origin and its herd's CWD Herd Certification Program status, and states that it is not a CWD-positive, CWD-exposed, or CWD-suspect animal.

We proposed to change these requirements. Because we proposed to

require that all animals from the CWD Herd Certification Program moved interstate to be monitored for 5 years, we proposed to change the requirement to indicate that the herd status must be Certified. We also proposed to require that the certificate indicate that the animal does not show clinical signs associated with CWD, rather than that the animal is not a CWD-positive, CWD-exposed, or CWD-suspect animal. Requiring the certificate to state that the animal does not show clinical signs associated with CWD is consistent with information that can be obtained from an examination and with other interstate animal movement regulations.

One commenter asked whether fulfilling this requirement would necessitate a veterinary inspection prior to movement. If so, the commenter stated, then the requirement is extremely burdensome. The commenter's State requires a brand inspector to inspect all animals prior to movement, meaning that having a veterinarian conduct an additional inspection is unnecessary if the herd has been certified. The commenter stated that the brand inspector would easily recognize CWD symptoms.

Requiring a veterinarian to inspect animals moved interstate is standard in all APHIS disease programs, and a veterinary inspection for farmed or captive deer, elk, and moose moved interstate is essential to ensure that the animal being moved interstate is apparently healthy and meets the requirements of the regulations. Both State veterinarians and accredited veterinarians who perform this certification must comply with certain standards of practice and are accountable to APHIS. Allowing some other agency to inspect and certify animals for interstate movement would not provide the assurance that the requirement for a veterinary inspection does. (We note that the July 2006 final rule also required the certificate accompanying a farmed or captive deer, elk, or moose moved interstate to be issued by a Federal veterinarian, State veterinarian, or accredited veterinarian, as discussed in § 81.4, ''Issuance of certificates.'')

Comments Not Related to the March 2009 Proposed Rule

Commenters on the March 2009 proposed rule raised several issues not related to the changes discussed in that document.

Some commenters stated that it was difficult to understand the full scope and content of the proposed CWD Herd Certification Program from the March 2009 proposed rule because the full text of the rule was not included. The commenters stated that they had raised concerns regarding aspects of the July 2006 final rule that were not addressed in the March 2009 proposed rule. The commenters stated that the incomplete text left uncertainty about other aspects of the program.

We developed the March 2009 proposed rule to address issues with respect to the July 2006 final rule that were raised in the petitions or in response to the petitions. Accordingly, the March 2009 proposed rule set out only the changes that we proposed to make to the July 2006 final rule. However, we understand that this could be confusing. To aid the reader, in this final rule we are setting out the entirety of the regulatory text in the July 2006 final rule, with the changes discussed in the March 2009 proposed rule and in this document. When this final rule becomes effective, the provisions in the regulatory text at the end of this document will be added to the Code of Federal Regulations. In addition, we are responding in this document to the comments we received on aspects of the July 2006 final rule that were not included in the March 2009 proposed rule, as well as other aspects of the regulations.

The regulations currently include in § 55.1 a definition of *herd.* A *herd* is defined as a group of animals that are under common ownership or supervision and are grouped on one or more parts of any single premises (lot, farm, or ranch), or all animals under common ownership or supervision on two or more premises which are geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.

One commenter stated that this definition permits the intrastate, and depending on proximity to a State border perhaps even the interstate, transportation of animals from one facility to another regardless of their status in the program.

Any deer, elk, or moose moved interstate must meet the requirements of part 81. If they are moved intrastate, they must meet applicable State requirements; Federal regulations do not restrict intrastate movement, although we do require States that participate in the CWD Herd Certification Program to have the authority to restrict intrastate movement of cervids. The definition of *herd* in part 55 does not have any bearing on the movement restrictions in part 81.

The July 2006 final rule included a definition of *herd plan.* Such a plan sets out steps to be taken to eradicate CWD from a CWD-positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent the introduction of CWD into that herd or any other herd.

Several commenters stated that herd plans should not allow reintroduction of cervids into a facility previously inhabited by CWD-positive animals, given evidence about the persistence of CWD in the environment and the lack of validated methods for decontaminating facilities that have housed CWD-positive animals.

One commenter expressed concern about the threat a premises that has held CWD-positive animals poses to wild cervids. This commenter stated that fences should remain in place on CWD-positive farms until a scientifically proven method has been developed for decontaminating facilities. Another stated that any premises that has held a CWD-positive animal should be quarantined for 5 years after the herd is depopulated, with no livestock allowed on the premises, followed by a reevaluation of the land and any environmental risk factors.

We note that all herds that participate in the CWD Herd Certification Program are required to have perimeter fencing under § 55.23(b)(2). As discussed in the July 2006 final rule, the definition's language will allow a herd plan to prohibit cervids from a premises for an appropriate period based on the specific risks and conditions of the individual herd. Ongoing and future research may help resolve many questions about environmental transmission of CWD and establish reasonable standards for when it is safe to repopulate a previously contaminated premises.

We do not consider it necessary to require permanent fencing of premises that contained CWD-positive herds for the purposes of preventing the interstate spread of CWD through the movement of farmed or captive cervids. However, under this final rule, States may impose requirements that are more restrictive.

As discussed earlier in this document, in the July 2006 final rule, paragraph (a)(4) of § 55.23 requires States to place all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit.

One commenter stated that all CWD-positive herds should be immediately quarantined and automatically depopulated upon verification of CWD-positive test results from two USDA-approved laboratories, as well as any herds traced forward or backward from a CWD-positive herd. The commenter stated that all cervids in such herds and

on such premises should be destroyed on site. Another commenter stated that all animals on game farms should be tested for CWD, with any positive test resulting in complete herd eradication.

We do not consider it necessary to immediately depopulate CWD-positive herds for the purpose of preventing the interstate spread of CWD through the movement of farmed or captive cervids. Animals from such herds will not be allowed to be moved interstate under this final rule, except directly to slaughter or under a research animal permit. We note that, under this final rule, States may require depopulation of CWD-positive and CWD-exposed herds.

In the July 2006 final rule, paragraph (b)(3) of § 55.23 requires herd owners participating in the CWD Herd Certification Program to make the carcasses of all animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter) available for tissue sampling and testing in accordance with instructions from the APHIS or State representative.

One commenter asked us to consider herd plans that do not require 100 percent testing of all animals that die or are killed when developing the guidance for implementing the CWD regulations. The commenter stated that 100 percent compliance may not always be possible, and expressed concern that Certified herds would lose their status by failing to provide samples. Another commenter stated that the regulations need to provide allowances for when animals escape or other factors make it impossible to provide a sample.

Testing all animals that die for CWD is necessary to establish, through surveillance over time, that animals in a particular herd are low risk for CWD. However, the regulations in § 55.23(b)(3) do provide that, in cases where animals escape or disappear and thus are not available for tissue sampling and testing, an APHIS representative will investigate whether the unavailability of animals for testing constitutes a failure to comply with program requirements and will affect the herd's status in the CWD Herd Certification Program, meaning we have provided the appropriate degree of program discretion in cases where a herd owner finds it impossible to provide samples.

In this final rule, we are amending § 55.23(b)(3) to indicate that we will also investigate program compliance when the samples provided are of poor quality, thus making it impossible to test them for CWD. Providing samples of poor quality causes the same problems as not providing a sample, and we need to be able to test all animals that die in a herd that is enrolled in the CWD Herd Certification Program.

One commenter stated that the regulations should provide a maximum time limit within which carcasses must be tested. In the commenter's State, for example, all licensees must submit carcasses for testing within 48 hours of the cervid's death to ensure that our agency can collect acceptable tissue samples for laboratory testing.

APHIS and the States are responsible for collecting the sample, once the owner makes it available, and testing it. We do so in accordance with guidelines that ensure that we have usable samples. The regulations in § 55.23(b)(3) require herd owners to immediately report deaths of deer, elk, or moose 12 months of age or older, which will give us adequate time to collect and test samples.

One commenter stated that the July 2006 final rule does not prevent the owner from removing animal identification prior to making cervid carcasses available to the State for CWD testing. The commenter stated that, if tags are removed before testing, cervid carcasses cannot be accurately identified nor can the movement history of individual animals be determined.

The regulations in § 55.23(b)(1) require all animals in a herd that is participating in the CWD Herd Certification Program to be identified. Paragraph (b)(3) requires all reports of animals that die to include the identification numbers of the animals involved. Section 55.25 requires animals in the program to be identified with an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or another device approved by APHIS. Such identification cannot be removed from the animal without leaving evidence that the identification has been removed, thus indicating noncompliance with the regulations. These requirements, taken together, address the commenter's concern.

Several commenters noted that, under § 55.24(a), Certified herds are not required to conduct slaughter surveillance and surveillance of animals killed in shooter operations. One commenter recommended that we require all animals that die to be tested for CWD in order to ensure that any CWD present in captive cervid facilities is detected.

Some commenters focused on shooter operations as a potential risk, stating that such facilities tend to be large, which creates more potential for ingress and egress of cervids, and are difficult to accurately inventory. These commenters stated that such circumstances make it even more important to maintain surveillance in those facilities.

Another commenter noted generally that there are data indicating that CWD prevalence is higher in adult male deer.[4] Since CWD can occur at a low prevalence and is difficult to detect, the commenter stated, excluding any animal from the testing requirement decreases the chances of detecting the disease when present. Thus, the commenter stated, excluding adult male deer that die or are killed on a premises would not be appropriate.

We agree that CWD can be difficult to detect even in infected animals. For example, in one herd that was depopulated in Minnesota, multiple elk that had shown no clinical signs of CWD turned out to be CWD-positive after testing. Animals in such a circumstance and in a Certified herd would not have been required to be tested for CWD under § 55.24(a). This indicates that we need to continue slaughter surveillance and surveillance of animals killed in shooter operations in order to provide additional certainty that Certified herds contain only animals that are low risk for CWD. Therefore, we are removing the provision in § 55.24(a) allowing Certified herds not to conduct slaughter surveillance and surveillance of animals killed in shooter operations.

We will, however, continue to evaluate the effectiveness of these regulations and will revisit this issue after the program has been established for some reasonable period of time. More scientific research may become available that guides our thinking on the most efficient, cost-effective forms of CWD surveillance.

With respect to the concerns specific to shooter operations, we note that, for herds in the CWD Herd Certification Program, herd premises must have perimeter fencing adequate to prevent ingress and egress of cervids under § 55.23(b)(2). The herd owner must also allow for an inventory, as described in § 55.23(b)(4). Herds that cannot meet these requirements would not be eligible for the program.

One commenter stated that the final rule requires testing only of cervids 16 months of age or older. The commenter stated that cervids are apparently susceptible to CWD at birth and CWD has been documented in cervids as young as 9 months of age. In the commenter's State, licensees are required to test all captive cervids 6

[4] Miller, M. W., and M. M. Conner. 2005. Epidemiology of chronic wasting disease in free-ranging mule deer: spatial, temporal, and demographic influences on observed prevalence patterns. Journal of Wildlife Diseases 41: 275–290.

months of age or older that die for any reason. The commenter suggested that we change our requirement to apply to all cervids 6 months of age or older.

As mentioned earlier, our regulations require that herd owners report the deaths of all cervids 12 months of age or older, not 16 months, and make the carcasses of those animals available for tissue sampling and testing. As discussed in the July 2006 final rule, the 12-month standard is based on our best approximation of the point where the value of additional epidemiological information exceeds the costs to producers and to program administration of testing younger animals. We will continue to review this standard as we gain more experience with the CWD Herd Certification Program and as new scientific information becomes available.

One commenter stated that paragraph (b)(3) of § 55.23 in the July 2006 final rule identifies APHIS employees and State representatives as people who can collect CWD test samples. The commenter stated that there is no definition of a State representative. Facing large volumes of CWD test samples, the commenter's State has established a formal program to certify private-sector collectors to provide routine surveillance samples for CWD program herds. The commenter stated that this program has the full confidence of APHIS staff in the State and that the regulations should recognize the program by defining ''State representative'' as a designated individual trained by the State in addition to accredited veterinarians and State or Federal officials.

The commenter is mistaken about the requirements of paragraph (b)(3); they do not discuss sample collection or testing, but merely require the owner to notify an APHIS employee or State representative of animals that escape, disappear, or die, and to make the carcasses of animals that die available for tissue sampling and testing in accordance with instructions from the APHIS or State representative.

However, we will work out procedures for sample collection and testing with States that have Approved State CWD Herd Certification Programs under § 55.22(b). In general, we would require that any private-sector collectors of CWD samples operate within a structure that provides accountability to the State and APHIS, as the program in the commenter's State does.

It should also be noted that § 55.1 does contain a definition of *State representative,* which reads as follows: ''A person regularly employed in the animal health work of a State and who is authorized by that State to perform the function involved under a cooperative agreement with the United States Department of Agriculture.'' We are amending this definition in this final rule to remove the reference to performing functions under a cooperative agreement, as not all functions performed by a State representative under the regulations will be performed under a cooperative agreement.

In the July 2006 final rule, paragraph (c) of § 55.24 provides that the Administrator may cancel enrollment after determining that the herd owner failed to comply with any requirements of § 55.24.

One commenter stated that the final rule does not include definitive actions or mechanisms to decertify captive herds if the owners fail to meet the program's requirements after they have been certified. These should include actions that will be taken if, for example, animals are not properly tagged, animals are not tested, fences are not maintained, or if the required records are incorrect, mishandled, or not provided.

We intended that paragraph (c) indicate that the Administrator may cancel enrollment after determining that the herd owner failed to comply with any requirements of subpart B in part 55. This would include failure to comply with the requirements the commenter mentioned, as well as failure to comply with herd plans and other important provisions of the CWD Herd Certification Program. Accordingly, this final rule corrects that provision of the regulations.

As the commenter implies, sometimes we may take actions short of cancellation in response to a failure to comply with the regulations. Because individual cases of failure to comply with the regulations will be different, we believe it is appropriate to make decisions on a case-by-case basis. However, with this change, we will make clear that the consequences of violations of the requirements can include cancellation of enrollment if the Administrator should determine that it is necessary and appropriate.

Paragraph (c) also provides that, in the event that a herd's enrollment is canceled, the herd owner may not reapply to enroll in the CWD Herd Certification Program for 5 years from the effective date of the cancellation. One commenter expressed concern that, because it takes 5 years for a herd to achieve Certified status, a herd owner whose enrollment was canceled would need 10 years to return a herd to Certified status. The commenter recommended allowing re-enrollment of canceled herds immediately.

We have reevaluated the provision and determined that the 5-year enrollment waiting period is not necessarily appropriate. While the animals from a herd whose enrollment has been canceled should not be moved interstate, it increases the strength of the CWD Herd Certification Program to have monitoring in place for those animals through the program. In addition, under the July 2006 final rule, after the 5-year waiting period is up, the owner of a herd whose enrollment is canceled could assemble a new herd composed of animals from Certified herds and thus be granted Certified status immediately, with no opportunity to monitor the owner's compliance before animals begin moving interstate from the herd.

To provide for monitoring of both types of herds, we are changing § 55.24(c) to indicate that any herd enrolled in the CWD Herd Certification Program by an owner whose herd's enrollment has been canceled may not reach Certified status until 5 years after the herd owner's new application for enrollment is approved by APHIS, regardless of the status of the animals of which the herd is composed. This change will provide for herds whose enrollment is canceled to immediately re-enter the program and thus be subject to monitoring. It will also ensure that newly assembled herds whose owners' enrollment was previously canceled are subject to thorough monitoring before animals from those herds can move interstate.

In the July 2006 final rule, § 55.25 set out requirements for animal identification for herds enrolled in the CWD Herd Certification Program. One commenter stated that the identification of individual cervids could be problematic, especially if animals have to be physically or chemically restrained. The commenter stated that animals would be put at serious risk of stress and injury, and identification could be cost-prohibitive if large quantities of immobilizing drugs are necessary. The commenter asked that we consider a redundant system of two industry-accepted herd identification methods, which may include ear notches, ear tattoos, ear tags, and transponders.

As discussed earlier, identification of animals in herds enrolled in the CWD Herd Certification Program is essential in order to allow for accurate inventory and tracking of the interstate movement of animals moved from enrolled herds. Without such information, we cannot conduct the surveillance and epidemiological investigations that are

necessary to determine whether animals from a herd are low risk for CWD. We consider the requirements in § 55.23 for two approved forms of identification, one of which meets the definition of *official animal identification* in § 55.1, essential to ensure the integrity of the animal identification used by herds enrolled in the program. Herds that cannot comply will not be eligible to participate in the voluntary CWD Herd Certification Program.

In the July 2006 final rule, part 81 contained restrictions on the interstate movement of deer, elk, and moose. The July 2006 final rule included in § 81.1 a definition of *deer, elk, and moose* that includes all animals of the genera Odocoileus, Cervus, and Alces and their hybrids. This definition is important in part 81 because the movement restrictions in that part apply only to deer, elk, and moose.

One commenter stated that all species in the family Cervidae should be included in the rule and in the CWD Herd Certification Program, stating that it is prudent to include all cervids until further research indicates that such deer cannot be infected with or spread CWD.

We have not expanded coverage to genera in which no species has demonstrated susceptibility via natural routes of transmission. To do so would extend the requirements of this rule without a sound basis, unnecessarily increasing the burden on regulated parties, especially zoos with large and varied animal collections. We are prepared to extend the definition in the future if new research demonstrates additional species in other genera are susceptible to CWD by natural routes of transmission. For example, we made a change in the July 2006 final rule to add moose to the animals covered by the regulations.

One commenter asked why all deer, elk, and moose herds need to be enrolled in the CWD program in order to move interstate when only a limited number of cervid species within those respective genera have been identified as being CWD susceptible.

As discussed in the July 2006 final rule, the definition of *deer, elk, and moose* was developed by identifying the species known to be susceptible to natural spread of CWD and then expanding coverage to the complete genera that include these species, under the assumption that related animals in a genus may share similar susceptibility to CWD even when all species in the genus have not been shown to be susceptible. Based on the progress of knowledge about susceptible species over recent years, we believe this to be a scientifically sound and prudent assumption. We will continue to evaluate scientific evidence on this issue; if necessary at some point in the future, we will adjust the scope of our regulations.

One commenter suggested that we include in § 81.1 a definition of *certificate,* to complement the requirements for a certificate in part 81. The commenter suggested that the definition be similar to the definition of *origin health certificate* in 9 CFR part 91, which deals with export certification.

The regulations in § 81.4(a) describe in detail the information required on certificates issued for interstate movement in accordance with part 81. The definition of *origin health certificate* in part 91 is largely devoted to explaining what information must be included on such a certificate. Consequently, we do not see a need to add such a definition to part 81.

In the July 2006 final rule, § 81.3 contains general restrictions on the interstate movement of deer, elk, and moose. Paragraph (b) of § 81.3 contains restrictions on the interstate movement of captive deer, elk, or moose that are captured from a wild population for interstate movement and release. Such animals must have two forms of animal identification, one of which is official animal identification, and a certificate accompanying the animal must document the source population to be low risk for CWD, based on a CWD surveillance program that is approved by the State Government of the receiving State and by APHIS.

Several commenters expressed concerns about these provisions. These commenters largely stated that the interstate movement of animals from wild populations should be subject to the same requirements as the interstate movement of animals from farmed or captive herds. Some commenters stated that captive animals are more thoroughly and continually monitored and restricted in their movement, and the percentage of infection with CWD in wildlife is much higher than in captive cervids. Another commenter noted that State fish and wildlife agencies may lack the funding and manpower necessary to conduct surveillance, meaning that some States may not be able to monitor the animals once they are released in the destination State.

The requirements for translocation are minimum requirements intended to regulate a practice that has been occurring. Without the provisions in § 81.3(b), there would have been no Federal CWD-related restrictions on the interstate movement of such animals. As one commenter pointed out, translocation can spread CWD; therefore, we determined that it was appropriate to put in place some restrictions on this movement.

We do not consider it practical to make the interstate movement of animals from wild populations subject to the same requirements as the interstate movement of animals from farmed or captive herds. Animals moved interstate from farmed or captive herds must come from a Certified herd, meaning they have been inventoried and monitored for 5 years to determine that they are low risk for CWD. It would be impossible to monitor wild animals in the same way we monitor farmed or captive animals. We note that, under this final rule, any State will be able to further restrict, or prohibit, the movement of animals captured from wild populations into the State.

As discussed earlier in this document, we encourage States to continue to perform surveillance in wild populations, both to facilitate the interstate movement of animals from wild populations and to understand the presence of CWD in their States generally.

In the July 2006 final rule, paragraph (c) of § 81.3 contained requirements for the interstate movement of deer, elk, and moose to slaughter. Two commenters asked that States be allowed to place additional requirements on such movement; one asked for a requirement that States be notified of such movement, and another asked that States be allowed to require a permit to ensure that the animals are moved directly to a slaughter facility.

Under this final rule, States can impose both of these additional requirements, as well as any other additional requirements they determine to be necessary, on movement to slaughter.

Some commenters asked questions regarding participation in the program. One requested that all nonsusceptible species be permitted to participate in the CWD Herd Certification Program on a voluntary basis, as movement restrictions imposed by States have had economic impacts on industry. If this change was made, the commenter asked that visible identification not be required for reindeer used for exhibition purposes. Another asked why reindeer are not included in the indemnity provisions in part 55.

We did not provide for the participation of species not known to be susceptible to CWD in the CWD Herd Certification Program because their interstate movement does not pose a risk of spreading CWD. Under this final rule, States will continue to be free to

impose restrictions on the interstate movement of farmed or captive cervids for any reason, not just related to CWD.

We recognize that the regulations may have created some confusion on this point. We published an interim rule in the **Federal Register** on February 8, 2002 (Docket No. 00–108–1, 67 FR 5925–5934) that established part 55. This rule defined *animal* as any captive cervid and stated that we would pay indemnity for CWD-positive animals, CWD-exposed animals, and CWD-suspect animals. However, of the animals in the family Cervidae, only deer, elk, and moose are known to be susceptible to CWD. We have not provided in our regulations for payment of indemnity for animals that are not susceptible to CWD, and we do not provide for their participation in the CWD Herd Certification Program, which is limited to deer, elk, and moose.

Accordingly, this final rule amends the definition of *animal* in § 55.1 to read: ''Any farmed or captive deer, elk, or moose.'' This clarifies the regulations in part 55 and makes the definition of *animal* in that part consistent with the definition of *animal* in § 81.1.

The February 2002 interim rule also defined *cervid* as all members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species. While this is an accurate definition of the word ''cervid,'' it may have created confusion; the provisions of part 55 contain several references to cervids in the context of payment of indemnity, but only animals that are susceptible to CWD are eligible for indemnity. Accordingly, we are amending the definition of *cervid* as well, to indicate that for the purposes of part 55, the term ''cervid'' refers to animals in the genera Odocoileus, Cervus, and Alces and their hybrids, i.e., deer, elk, and moose. As the July 2006 final rule included an identical definition of *cervid* in part 81, we are amending that definition as well.

Two commenters expressed concern that the July 2006 final rule and the March 2009 proposed rule did not include specific details on how the CWD Herd Certification Program will operate. One stated that the rule should refer to a document that specifies the proper management of captive herds. Both of these commenters expressed specific concern about the lack of information about sample collection and testing.

Another commenter asked that we provide detailed information on how infected herds will be dealt with, i.e., quarantine and testing, depopulation, cleaning and disinfection, and fence maintenance requirements.

The optimal methods for most specific aspects of the CWD Herd Certification Program will vary among States. For States that already have CWD programs, we will review their specific methods and determine whether they are adequate to meet the performance standards set out in § 55.23(a). We will also develop a program standards document that will provide detailed guidance on the implementation of and compliance with the regulations, including sample collection and testing and the actions taken when a herd is quarantined. This approach gives States and herd owners flexibility to achieve performance-based standards and will allow us to update the guidance whenever it becomes necessary. For example, in the future, new scientific evidence about CWD may indicate that different testing or cleaning and disinfection methods are appropriate; we will update our guidance if such evidence becomes available.

With respect to sample collection and testing, these activities will be overseen by APHIS employees and State representatives. We will have systems in place to ensure that people who collect samples are performing these activities correctly. Standards for approval of CWD testing laboratories are already found in § 55.8(d).

One commenter expressed concern about zoos' continued ability to hold and transport deer, elk, and moose for the purposes of public display, outreach education, and cooperative breeding programs. The commenter stated that the proposed rule is specific to the deer, elk, and moose farming community and does not address the specific needs and unique circumstances of the accredited zoo community. The commenter proposed that a method be developed to allow the movement of captive deer, elk, and moose by and between zoos that are accredited by the Association of Zoos and Aquariums, based on that association's guidelines for CWD surveillance in captive cervids in zoos.

The regulations in § 81.3(e) provide for the Administrator to issue a permit for the interstate movement of captive deer, elk, or moose in cases where the Administrator determines that adequate survey and mitigation procedures are in place to prevent dissemination of CWD. If a zoo presents evidence establishing that its survey and mitigation procedures are adequate to prevent dissemination of CWD, we will allow the interstate movement of animals from that zoo. We plan to work with zoos on how such movement might occur, and we may develop a proposal for stakeholder consideration to establish a zoo movement protocol in the future.

We note that, as this final rule does not preempt State laws and regulations that are more restrictive than our regulations, the interstate movement of captive deer, elk, and moose between zoos may be subject to additional State restrictions or prohibitions.

One commenter stated that the interstate movement of deer body parts should be restricted so that hunted deer parts from areas where CWD is endemic do not enter nonendemic areas.

The movement of deer parts in interstate commerce for human or animal consumption is regulated by the Food and Drug Administration. States may also have restrictions on the entry of deer parts and products.

One commenter, noting that we stated in the July 2006 final rule that there exists no live animal test for CWD, stated that there are two live-animal tests available: Tonsillar and rectal biopsies. The commenter stated that the tests are currently not recognized by all government entities, but could be a beneficial tool for research and whole herd surveillance. The commenter also recommended that we require all deer, elk, and moose moved interstate to have a live-animal test performed at least 30 days before transport. Two commenters stated that the regulations should take into account the possibility of an accepted live-animal test becoming available.

These tests have not yet been determined to be effective at detecting CWD in live animals, and thus we do not recognize them as official tests for use in the CWD Herd Certification Program. We certainly encourage research into methods for live-animal CWD detection. If and when an official live-animal test becomes available, we will amend the regulations to take its availability into account.

One commenter encouraged us to work with the U.S. Department of the Interior to develop disease eradication plans in U.S. wildlife, since it is obvious that domestic animal diseases, such as brucellosis in bison and elk, bovine tuberculosis in deer and elk, CWD in cervids, and scrapie in Big Horn sheep, can greatly impact wildlife and result in devastating economic loss to domestic livestock industries and business communities that depend on hunting for an economic base.

Wild deer and elk, as well as other wild animals, are State resources, unless they are on Federal land, in which case the Department of the Interior may be involved. We work with the States and with the Department of the Interior on research and mitigation development to help prevent disease transmission between wildlife and livestock.

Two commenters addressed importation of deer, elk, and moose. One stated that we should prohibit the importation of cervids from countries where CWD is present until those countries develop a herd monitoring and certification program that is equivalent to our program. The other stated that CWD-free countries are not likely to have an ongoing CWD surveillance program, meaning that it would be appropriate to allow the importation of cervids from CWD-free countries without requiring a herd surveillance program in the country of origin.

We restrict the importation of ruminants generally in 9 CFR part 93, Subpart D, which covers the importation of all ruminants. We plan to implement CWD-specific import requirements in the future; when we do, they will be equivalent to our requirements for interstate movement, in keeping with our commitments as a member of the World Trade Organization. Therefore, we agree with the first commenter. With respect to the second commenter's recommendation, one component of maintaining disease-free status is performing ongoing surveillance to confirm continued freedom from the disease, and we would require such surveillance for imported cervids.

Miscellaneous Changes

In the July 2006 final rule, paragraph (b) of § 55.22 indicated that owners of farmed or captive deer, elk, or moose herds could apply to enroll in a Federal CWD Herd Certification Program if no State CWD Herd Certification program exists in the herd's State. Although we were prepared to establish such a program in 2006, changes in appropriated funds for the CWD program may make it impossible to do so in the future. We are amending paragraph (b) to indicate that the option of a Federal CWD Herd Certification Program will be subject to the availability of appropriated funds. If a Federal CWD Herd Certification Program cannot be made available to herd owners, they will have to participate in an Approved State CWD Herd Certification Program in order for their herds to achieve Certified status and thus be eligible to move interstate under part 81.

In the July 2006 final rule, paragraph (a)(10) of § 55.23 indicates that States are responsible for maintaining certain data in the CWD National Database administered by APHIS, or in a State database approved by the Administrator as compatible with the CWD National Database. However, references to the CWD National Database in §§ 55.25 and 81.2 do not also provide for the use of a State database that is compatible with the CWD National Database. Accordingly, we are amending those references to the CWD National Database to indicate that the required data may be found either in the CWD National Database or in an approved State database.

In this final rule, we are revising the definition of *Administrator* in § 55.1 to read: ''The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.'' The definition of *Administrator* in § 55.1 currently limits those who can act for the Administrator to APHIS employees, but State representatives may be authorized in some cases to fulfill tasks assigned to the Administrator in the context of operating their State CWD Herd Certification Programs. We are also adding this definition of *Administrator* to § 81.1.

In the July 2006 final rule, we revised the definition of *CWD-positive animal* to state that such an animal must have its diagnosis confirmed by means of two official CWD tests. In the Background section of that final rule, we stated that we expect that, in most cases, the first test would be conducted by a State, Federal, or university laboratory approved to conduct CWD official tests in accordance with § 55.8, and, if the first test was positive, a second, confirmatory test would be conducted at NVSL to confirm the diagnosis of CWD. In some cases, both the initial and confirmatory test may be conducted at NVSL.

However, stating that two official tests are conducted could indicate to readers that two different types of official tests must be conducted in order for an animal to be determined to be CWD-positive, which is not correct; our intent was to indicate that there must be two positive results, which may be from the same type of test. The definition also does not indicate that NVSL is the confirmatory laboratory. The intent behind our changes was to indicate that an animal will be determined to be a CWD-positive animal only after an initial positive result and subsequent official confirmatory testing conducted by NVSL. As indicated in the July 2006 final rule, official confirmatory testing by NVSL is required whether the initial test was conducted by an approved laboratory or by NVSL itself. Therefore, we are amending the definition of *CWD-positive animal* to indicate that such an animal must have its diagnosis of CWD established through official confirmatory testing conducted by NVSL.

We are also reorganizing § 55.25 by moving the second sentence to the end of the section, to improve clarity.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

IV. Compliance With Other Statutes and Executive Orders

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule amends a suspended final rule published in July 2006, for the control of chronic wasting disease (CWD) in farmed or captive cervids (deer, elk, and moose) in the United States. The July 2006 final rule established a voluntary Herd Certification Program that included CWD monitoring and testing requirements and set interstate movement restrictions. APHIS suspended the July 2006 final rule indefinitely to reconsider several of its requirements in response to petitions from the public and comments on those petitions. In this document, we examine expected benefits and costs of the July 2006 final rule, as amended by this final rule. With publication of this final rule and concurrent removal of the

suspension of the July 2006 final rule, farmed or captive deer, elk, and moose herd owners who choose to participate in the Herd Certification Program will have to meet program requirements for animal identification, testing, and herd management. With certain exceptions, only deer, elk, and moose from Certified herds will be eligible for interstate movement.

Amendments to the July 2006 final rule include the following: (i) The Federal CWD regulations will set minimum requirements for interstate movement, while States will be allowed to impose additional requirements; (ii) cervids allowed to be moved interstate (other than ones moving to slaughter or for research), must be from Certified herds that have been monitored for a period of at least 5 years and that have not been epidemiologically linked to herds where CWD has been diagnosed, or captured from a wild cervid population that has been documented to be low risk for CWD based on a surveillance program; (iii) farmed or captive cervids, when en route to another State, will be allowed to transit through States that otherwise ban or restrict their entry; (iv) a physical inventory of the animals will be required at the time a herd is enrolled in a CWD certification program and thereafter the animals will need to be physically assembled for inventory within 3 years of the last physical inventory; (v) certified cervids that die or are killed at slaughter or on shooter operations will be required to be tested for CWD; and (vi) there will be optional confirmatory DNA test provisions for animals that test CWD-positive.

Implementation of the July 2006 final rule as amended by this final rule is expected to result in both positive and negative economic effects for herd owners and States, with benefits and costs depending on herd owners' existing management practices and marketing activities and States' current provisions with respect to CWD control. Overall benefits of the rule are expected to exceed its costs. Foremost, the July 2006 rule, as amended, will help prevent the spread of CWD among States and facilitate interstate movement of healthy cervids. The Herd Certification Program will also promote U.S. producers' access to international markets for cervid products such as antler velvet.

The regulations will provide uniform minimum requirements for interstate movement. This final rule will allow States to enact and administer stricter CWD status requirements for cervids entering from other States. As at present, herd owners' interstate marketing decisions may need to account for dissimilar State CWD certification regulations.

Some herd owners also may be adversely affected by the 5-year monitoring requirement for interstate movement; however, available research indicates that this minimum period of monitoring is necessary to provide an adequate level of protection against the spread of CWD. Most researchers agree that CWD manifests itself within 5 years if the disease is present in a herd of farmed or captive cervids. Many herd owners have been participating in state level CWD HCP's for at least 5 years and will have met this requirement as a result of being enrolled in a state program that becomes an Approved State HCP in the national CWD HCP program.

Producers who participate in the Herd Certification Program will be required to maintain a complete inventory of their herds, with verification by APHIS or State officials. The annual inventory cost is estimated to average about $25 to $30 per deer or elk, including the animals' physical inventory once every three years and use of eartags for identification. (We do not know of any farmed or captive moose herds.) Values of farmed or captive deer and elk range widely, depending on the type of animal and market conditions. Based on average per animal values of $2,000 for deer and $2,200 for elk, annual inventory costs are estimated to average between 1.25 and 1.50 percent of the value of a farmed or captive deer and to between 1.14 and 1.36 percent of the value of a farmed or captive elk.

The requirement that cervids from herds participating in the certification program be tested for CWD when they die or are killed (including slaughter) will entail submission of the carcass or whole head for tissue sampling and testing or collection of the tissue sample by an approved veterinarian. The estimated cost is about $150 per sample, equivalent to about 8 percent of the average value of a farmed or captive deer and about 7 percent of the average value of a farmed or captive elk. CWD testing of cervids is recognized by APHIS, the States, and cervid herd owners as essential to successful control of this disease.

Herd owners will have the option of using confirmatory DNA testing provisions to verify that the sample tested is from the animal in question, although APHIS is confident that the existing chain-of-custody processes for CWD testing are effective. Owners who choose confirmatory DNA testing will consider it a benefit, as evidenced by their voluntary payment for this test.

Most cervid operations are small entities. The rule will have a positive overall economic impact on affected entities large and small, and the U.S. cervid industries generally, in controlling the spread of CWD and facilitating interstate and international trade in cervids and cervid products.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13175

APHIS sent a letter notifying all 565 federally recognized Tribes of the proposed changes to the CWD regulations. APHIS requested from Tribes all comments based on potential impacts and outcomes concerning the March 2009 proposed rule. APHIS offered to conduct conference calls or formal consultations with Tribal leaders if requested. APHIS did not receive any comments from Tribes regarding the March 2009 proposed rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), we published a notice in the **Federal Register** on January 24, 2012 (77 FR 3434–3435, Docket No. APHIS–2011–0032), announcing our intention to reinstate the information collection associated with the July 2006 final rule and soliciting comments on it. We are asking the Office of Management and Budget (OMB) to approve our use of this information collection for 3 years. When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance 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. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects

9 CFR Part 55

Animal diseases, Cervids, Chronic wasting disease, Deer, Elk, Indemnity payments, Moose.

9 CFR Part 81

Animal diseases, Cervids, Deer, Elk, Moose, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, for the reasons set forth in the preamble under the authority at 7 U.S.C. 8301–8317 and 7 CFR 2.22, 2.80, and 371.4, we are announcing the effective date of the final rule published on July 21, 2006 (71 FR 41682) and further amending 9 CFR Chapter I as follows:

PART 55—CONTROL OF CHRONIC WASTING DISEASE

■ 1. The authority citation for part 55 is revised to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 55.1 is amended as follows:

■ a. In the definition of *State representative,* by removing the words ''under a cooperative agreement with the United States Department of Agriculture''.

■ b. By revising the definitions of *Administrator, animal, cervid, CWD-exposed animal, CWD-positive animal, CWD-suspect animal, herd plan, official animal identification,* and *premises identification number (PIN)* to read as set forth below.

■ c. By adding definitions for *accredited veterinarian* and *National Uniform Eartagging System,* in alphabetical order, to read as set forth below.

§ 55.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. Any farmed or captive deer, elk, or moose.

* * * * *

Cervid. All members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species. For the purposes of this part, the term ''cervid'' refers specifically to cervids susceptible to CWD. These are animals in the genera Odocoileus, Cervus, and Alces and their hybrids, i.e., deer, elk, and moose.

CWD-exposed animal. An animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

CWD-positive animal. An animal that has had a diagnosis of CWD established through official confirmatory testing conducted by the National Veterinary Services Laboratories.

* * * * *

CWD-suspect animal. An animal for which an APHIS employee or State representative has determined that unofficial CWD test results, laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which official laboratory results have been inconclusive or not yet conducted.

* * * * *

Herd plan. A written herd and/or premises management agreement developed by APHIS in collaboration with the herd owner, State representatives, and other affected parties. The herd plan will not be valid until it has been reviewed and signed by the Administrator, the State representative, and the herd owner. A herd plan sets out the steps to be taken to eradicate CWD from a CWD-positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd. A herd plan will require specified means of identification for each animal in the herd; regular examination of animals in the herd by a veterinarian for clinical signs of disease; reporting to a State or APHIS representative of any clinical signs of a central nervous system disease or chronic wasting condition in the herd; maintaining records of the acquisition and disposition of all animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed; and the cause of death, if the animal died while in the herd. A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular circumstances of the herd and its premises, including but not limited to depopulation of the herd, specifying the time for which a premises must not contain cervids after CWD-positive, -exposed, or -suspect animals are removed from the premises; fencing requirements; selective culling of animals; restrictions on sharing and movement of possibly contaminated livestock equipment; premises cleaning and disinfection requirements; or other requirements. A herd plan may be reviewed and changes to it suggested at any time by any party signatory to it, in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread. The revised herd plan will become effective after it is reviewed by the Administrator and signed by the Administrator, the State representative, and the herd owner.

* * * * *

National Uniform Eartagging System. A numbering system for the official identification of individual animals in the United States providing a nationally unique identification number for each animal. The National Uniform Eartagging System employs an eight- or nine-character alphanumeric format, consisting of a two-number State or territory code, followed by two or three letters and four additional numbers. Official APHIS disease control programs may specify which format to employ.

* * * * *

Official animal identification. A device or means of animal identification approved for use under this part by APHIS to uniquely identify individual animals. Examples of approved official animal identification devices are listed in § 55.25. The official animal identification must include a nationally unique animal identification number that adheres to one of the following numbering systems:

(1) National Uniform Eartagging System. The CWD program allows the use of either the eight-character or nine-character format for cervids.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

* * * * *

Premises identification number (PIN). A nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority, a geographically distinct location from other premises. The premises identification number is associated with an address, geospatial coordinates, and/or location descriptors which provide a verifiably unique location. The premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number. The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

* * * * *

■ 3. In part 55, subpart B is revised to read as follows:

Subpart B—Chronic Wasting Disease Herd Certification Program

Sec.

55.21 Administration.
55.22 Participation and enrollment.
55.23 Responsibilities of States and enrolled herd owners.
55.24 Herd status.
55.25 Animal identification.

Subpart B—Chronic Wasting Disease Herd Certification Program

§ 55.21 Administration.

The CWD Herd Certification Program is a cooperative effort between APHIS, State animal health and wildlife agencies, and deer, elk, and moose owners. APHIS coordinates with these State agencies to encourage deer, elk, and moose owners to certify their herds as low risk for CWD by being in continuous compliance with the CWD Herd Certification Program standards.

§ 55.22 Participation and enrollment.

(a) *Participation by States.* Any State that operates a State program to certify the CWD status of deer, elk, or moose may request the Administrator to designate the State program as an Approved State CWD Herd Certification Program. The Administrator will approve or disapprove a State program in accordance with § 55.23(a). In States with an Approved State CWD Herd Certification Program, program activities will be conducted in accordance with the guidelines of that program as long as the State program meets the minimum requirements of this part. A list of Approved State CWD Herd Certification Programs may be obtained by writing to the National Center for Animal Health Program, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

(b) *Participation by owners.* Any owner of a farmed or captive deer, elk, or moose herd may apply to enroll in an Approved State CWD Herd Certification Program by sending a written request to the appropriate State agency. Subject to the availability of appropriated funds for a Federal CWD Herd Certification Program, the owner may apply to the APHIS veterinarian in charge if no Approved State CWD Herd Certification Program exists in the herd's State. APHIS or the State will determine the herd's eligibility, and if needed will require the owner to submit more details about the herd animals and operations. An application for participation may be denied if APHIS or the State determines that the applicant has previously violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not faithfully comply with the requirements of the CWD Herd Certification Program. If the enrolling herd is a CWD-positive herd or CWD-exposed herd, immediately after enrollment it must begin complying with a herd plan developed in accordance with § 55.24. After determining that the herd is eligible to participate in accordance with this paragraph, APHIS or the appropriate State agency will send the herd owner a notice of enrollment that includes the herd's enrollment date. Inquiries regarding which herds are participating in the CWD Herd Certification Program and their certification should be directed to the State representative of the relevant State.

(1) *Enrollment date.* With the exceptions listed in this paragraph, the enrollment date for any herd that joins the CWD Herd Certification Program after August 13, 2012 will be the date the herd is approved for participation.

(i) For herds already participating in State CWD programs, the enrollment date will be the first day that the herd participated in a State program that APHIS subsequently determines qualifies as an Approved State CWD Herd Certification Program in accordance with § 55.23(a) of this part.

(ii) For herds that enroll directly in the Federal CWD Herd Certification Program, which is allowed only when there is no Approved State CWD Herd Certification Program in their State and which is subject to the availability of appropriated funds, the enrollment date will be the earlier of:

(A) The date APHIS approves enrollment; or

(B) If APHIS determines that the herd owner has maintained the herd in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, the first day that the herd participated in such a program. However, in such cases the enrollment date may not be set at a date more than 3 years prior to the date that APHIS approved enrollment of the herd.

(iii) For new herds that were formed from and contain only animals from herds enrolled in the CWD Herd Certification Program, the enrollment date will be the latest enrollment date for any source herd for the animals.

(2) [*Reserved*]

(Approved by the Office of Management and Budget under control number 0579–0237)

§ 55.23 Responsibilities of States and enrolled herd owners.

(a) *Approval of State programs and responsibilities of States.* In reviewing a State program's eligibility to be designated an Approved State CWD Herd Certification Program, the Administrator will evaluate a written statement from the State that describes the State's CWD control and deer, elk, and moose herd certification activities and that cites relevant State statutes, regulations, and directives pertaining to animal health activities and reports and publications of the State. In determining whether the State program qualifies, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the intrastate movement of all CWD-positive, CWD-suspect, and CWD-exposed animals.

(2) Has the authority, based on State law or regulation, to require the prompt reporting of any animal suspected of having CWD and test results for any animals tested for CWD to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding with APHIS that delineates the respective roles of the State and APHIS in CWD Herd Certification Program implementation.

(4) Has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement

of animals from them only for destruction or under permit.

(5) Has effectively implemented policies to:

(i) Promptly investigate all animals reported as CWD-suspect animals;

(ii) Designate herds as CWD-positive, CWD-exposed, or CWD-suspect and promptly restrict movement of animals from the herd after an APHIS employee or State representative determines that the herd contains or has contained a CWD-positive animal;

(iii) Remove herd movement restrictions only after completion of a herd plan agreed upon by the State representative, APHIS, and the owner;

(iv) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(v) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and

(vi) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(6) Effectively monitors and enforces State quarantines and State reporting laws and regulations for CWD.

(7) Has designated at least one State animal health official, or has worked with APHIS to designate an APHIS official, to coordinate CWD Herd Certification Program activities in the State.

(8) Has programs to educate those engaged in the interstate movement of deer, elk, and moose regarding the identification and recordkeeping requirements of this part.

(9) Requires, based on State law or regulation, and effectively enforces identification of all animals in herds participating in the CWD Herd Certification Program;

(10) Maintains in the CWD National Database administered by APHIS, or in a State database approved by the Administrator as compatible with the CWD National Database, the State's:

(i) Premises information and assigned premises numbers;

(ii) Individual animal information on all deer, elk, and moose in herds participating in the CWD Herd Certification Program in the State;

(iii) Individual animal information on all out-of-State deer, elk, and moose to be traced; and

(iv) Accurate herd status data.

(11) Requires that tissues from all CWD-exposed or CWD-suspect animals that die or are depopulated or otherwise killed be submitted to a laboratory authorized by the Administrator to conduct official CWD tests and requires appropriate disposal of the carcasses of CWD-positive, CWD-exposed, and CWD-suspect animals.

(b) *Responsibilities of enrolled herd owners.* Herd owners who enroll in the CWD Herd Certification Program agree to maintain their herds in accordance with the following conditions:

(1) Each animal in the herd must be identified using means of animal identification specified in § 55.25. All animals in an enrolled herd must be identified before reaching 12 months of age. In addition, all animals of any age in an enrolled herd must be identified before being moved from the herd premises. In addition, all animals in an enrolled herd must be identified before the inventory required under paragraph (b)(4) of this section, and animals found to be in violation of this requirement during the inventory must be identified during or after the inventory on a schedule specified by the APHIS employee or State representative conducting the inventory;

(2) The herd premises must have perimeter fencing adequate to prevent ingress or egress of cervids. This fencing must also comply with any applicable State regulations;

(3) The owner must immediately report to an APHIS employee or State representative all animals that escape or disappear, and all deaths (including animals killed on premises maintained for hunting and animals sent to slaughter) of deer, elk, and moose in the herd aged 12 months or older; Except that, APHIS employees or State representatives may approve reporting schedules other than immediate notification when herd conditions warrant it in the opinion of both APHIS and the State. The report must include the identification numbers of the animals involved and the estimated time and date of the death, escape, or disappearance. For animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter), the owner must inform an APHIS or State representative and must make the carcasses of the animals available for tissue sampling and testing in accordance with instructions from the APHIS or State representative. In cases where animals escape or disappear and thus are not available for tissue sampling and testing, or when the owner provides samples that are of such poor quality that they cannot be tested for CWD, an APHIS representative will investigate whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and will affect the herd's status in the CWD Herd Certification Program;

(4) The owner must maintain herd records that include a complete inventory of animals that states the species, age, and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Upon request by an APHIS employee or State representative, the owner must allow either of these officials or a designated accredited veterinarian access to the premises and herd to conduct an inventory. The owner will be responsible for assembling, handling, and restraining the animals and for all costs incurred to present the animals for inspection. The APHIS employee or State representative may order either an inventory that consists of review of herd records with visual examination of an enclosed group of animals, or a complete physical herd inventory with verification to reconcile all animals and identifications with the records maintained by the owner. In the latter case, the owner must present the entire herd for inspection under conditions where the APHIS employee, State representative, or accredited veterinarian can safely read all identification on the animals. During inventories, the owner must cooperate with the inspector to resolve any discrepancies to the satisfaction of the person performing the inventory. Inventory of a herd will be conducted no more frequently than once per year, unless an APHIS employee, State representative, or accredited veterinarian determines that more frequent inventories are needed based on indications that the herd may not be in compliance with CWD Herd Certification Program requirements. A complete physical herd inventory must be performed on a herd in accordance with this paragraph at the time a herd is enrolled in the CWD Herd Certification Program; Except that, APHIS may accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the herd's date of enrollment in the CWD Herd Certification Program as fulfilling the requirement for an initial inventory. In addition, a complete physical herd inventory must be performed for all herds enrolled in

the CWD Herd Certification Program no more than 3 years after the last complete physical herd inventory for the herd;

(5) If an owner wishes to maintain separate herds, he or she must maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There must be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds;

(6) New animals may be introduced into the herd only from other herds enrolled in the CWD Herd Certification Program. If animals are received from an enrolled herd with a lower program status, the receiving herd will revert to that lower program status. If animals are obtained from a herd not participating in the program, then the receiving herd will be required to start over in the program.

(Approved by the Office of Management and Budget under control number 0579–0237)

§ 55.24 Herd status.

(a) *Initial and subsequent status.* When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status; except that, if the herd is composed solely of animals obtained from herds already enrolled in the Program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd. If the herd continues to meet the requirements of the CWD Herd Certification Program, each year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year; i.e., Second Year status, Third Year status, Fourth Year status, and Fifth Year status. One year from the date a herd is placed in Fifth Year status, the herd status will be changed to Certified, and the herd will remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(b) *Loss or suspension of herd status.* (1) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only reenroll after entering into a herd plan.

(2) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation by APHIS or a State animal health agency. If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level.

(i) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(ii) If the epidemiological investigation is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status will continue as Suspended unless and until a herd plan is developed for the herd. If a herd plan is developed and implemented, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level; *Except that,* if the epidemiological investigation finds that the owner of the herd has not fully complied with program requirements for animal identification, animal testing, and recordkeeping, the herd will be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed in Suspended status must then comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program. The herd plan will require testing of all animals that die in the herd for any reason, regardless of the age of the animal, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question, and may include other requirements found necessary to control the risk of spreading CWD.

(3) If an APHIS or State representative determines that animals from a herd enrolled in the program have commingled with animals from a herd with a lower program status, the herd with the higher program status will be reduced to the status of the herd with which its animals commingled.

(c) *Cancellation of enrollment by Administrator.* The Administrator may cancel the enrollment of an enrolled herd by giving written notice to the herd owner. In the event of such cancellation, any herd enrolled in the CWD Herd Certification Program by that herd owner may not reach Certified status until 5 years after the herd owner's new application for enrollment is approved by APHIS, regardless of the status of the animals of which the herd is composed. The Administrator may cancel enrollment after determining that the herd owner failed to comply with any requirements of this subpart. Before enrollment is canceled, an APHIS representative will inform the herd owner of the reasons for the proposed cancellation.

(1) Herd owners may appeal designation of an animal as CWD-positive, cancellation of enrollment of a herd, or loss or suspension of herd status by writing to the Administrator within 10 days after being informed of the reasons for the action. The appeal must include all of the facts and reasons upon which the herd owner relies to show that the reasons for the action are incorrect or do not support the action. Specifically, to appeal designation of an animal as CWD-positive, the owner may present as evidence the results of a DNA test requested and paid for by the owner to determine whether previous official CWD test results were correctly associated with an animal that belonged to the owner. If the owner intends to present such test results as evidence, he or she shall request the tests and state this in the written notice sent to the Administrator. In such cases the Administrator may postpone a decision on the appeal for a reasonable period pending receipt of such test results. To this end, laboratories approved under § 55.8 are authorized to conduct DNA tests to compare tissue samples tested for CWD to samples from tissues that were collected at the same time from the same animal and are attached to an official identification device. Such DNA tests are available only if the animal owner arranged to submit animal tissue attached to an official identification device along with the other tissues that were collected for the official CWD test. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If the Administrator grants an appeal of the status of a CWD-positive animal, the animal shall be redesignated as CWD-suspect pending further investigation to establish the final status of the animal and its herd. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) [*Reserved*]

(d) *Herd status of animals added to herds.* A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification

Program with no negative impact on the certification status of the receiving herd.[5] If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd. If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

(Approved by the Office of Management and Budget under control number 0579–0237.)

§ 55.25 Animal identification.

Each animal required to be identified by this subpart must have at least two forms of animal identification attached to the animal. One of the animal identifications must be official animal identification as defined in this part, with a nationally unique animal identification number that is linked to that animal in the CWD National Database or in an approved State database. The second animal identification must be unique for the individual animal within the herd and also must be linked to that animal and herd in the CWD National Database or in an approved State database. The means of animal identification must be approved for this use by APHIS, and must be an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or other device approved by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0237)

■ 4. Part 81 is revised to read as follows:

PART 81—CHRONIC WASTING DISEASE IN DEER, ELK, AND MOOSE

Sec.

81.1 Definitions.
81.2 Identification of deer, elk, and moose in interstate commerce.
81.3 General restrictions.
81.4 Issuance of certificates.
81.5 Movement of deer, elk, or moose through a State to another State.
81.6 Federal preemption of State and local laws and regulations with respect to CWD.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 81.1 Definitions.

These definitions are applicable to this part:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. Any farmed or captive deer, elk, or moose.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Animal identification. A device or means of animal identification approved for use under this part by APHIS. Examples of animal identification devices that APHIS has approved are listed in § 55.25 of this chapter.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

APHIS employee. Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

Cervid. All members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species. For the purposes of this part, the term ''cervid'' refers specifically to cervids susceptible to CWD. These are animals in the genera Odocoileus, Cervus, and Alces and their hybrids, i.e., deer, elk, and moose.

Chronic wasting disease (CWD). A transmissible spongiform encephalopathy of cervids. Clinical signs in affected animals include, but are not limited to, loss of body condition, behavioral changes, excessive salivation, increased drinking and urination, depression, and eventual death.

CWD Herd Certification Program. The Chronic Wasting Disease Herd Certification Program established in part 55 of this chapter.

Deer, elk, and moose. All animals in the genera Odocoileus, Cervus, and Alces and their hybrids.

Farmed or captive. Privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined area, or captured from a wild population for interstate movement and release.

National Uniform Eartagging System. A numbering system for the official identification of individual animals in the United States providing a nationally unique identification number for each animal. The National Uniform Eartagging System employs an eight- or nine-character alphanumeric format, consisting of a two-number State or territory code, followed by two or three letters and four additional numbers. Official APHIS disease control programs may specify which format to employ.

Official animal identification. A device or means of animal identification approved for use under this part by APHIS to uniquely identify individual animals. Examples of approved official animal identification devices are listed in § 55.25 of this chapter. The official animal identification must include a nationally unique animal identification number that adheres to one of the following numbering systems:

(1) National Uniform Eartagging System. The CWD program allows the use of either the eight-character or nine-character format for cervids.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Premises identification number (PIN). A nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority, a geographically distinct location from other premises. The premises identification number is associated with an address, geospatial coordinates, and/or location descriptors which provide a verifiably unique location. The premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number. The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

[5] Note that in addition to this requirement, § 81.3 of this chapter restricts the interstate movement of farmed and captive deer, elk, and moose based on their status in the CWD Herd Certification Program.

§ 81.2 Identification of deer, elk, and moose in interstate commerce.

Each animal required to be identified by this part must have at least two forms of animal identification attached to the animal. The means of animal identification must be approved for this use by APHIS, and must be an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or other device approved by APHIS. One of the animal identifications must be an official animal identification as defined in this part, with a nationally unique animal identification number that is linked to that animal in the CWD National Database or in an approved State database. The second animal identification must be unique for the individual animal within the herd and also must be linked to that animal and herd in the CWD National Database or in an approved State database.

(Approved by the Office of Management and Budget under control number 0579–0237)

§ 81.3 General restrictions.

No farmed or captive deer, elk, or moose may be moved interstate unless it meets the requirements of this section.

(a) *Animals in the CWD Herd Certification Program.* The captive deer, elk, or moose is:

(1) Enrolled in the CWD Herd Certification Program and the herd has achieved Certified status in accordance with § 55.24 of this chapter; and

(2) Is accompanied by a certificate issued in accordance with § 81.4 that identifies its herd of origin and that states that the animal's herd has achieved Certified status and that the animal does not show clinical signs associated with CWD.

(b) *Animals captured for interstate movement and release.* If the captive deer, elk, or moose was captured from a wild population for interstate movement and release, each animal must have two forms of animal identification, one of which is official animal identification, and the certificate issued in accordance with § 81.4 that accompanies the animal must state that the source population has been documented to be low risk for CWD, based on a CWD surveillance program in wild cervid populations that is approved by the State Government of the receiving State and by APHIS.

(c) *Animals moved to slaughter.* The farmed or captive deer, elk, or moose must be moved directly to a recognized slaughtering establishment for slaughter, must have two forms of animal identification, one of which is official animal identification, and must be accompanied by a certificate issued in accordance with § 81.4.

(d) *Research animal movements and permits.* A research animal permit is required for the interstate movement of cervids for research purposes. The permit will specify any special conditions of the movement determined by the Administrator to be necessary to prevent the dissemination of CWD. The Administrator may, at his or her discretion, issue the permit if he or she determines that the destination facility has adequate biosecurity and that the movement authorized will not result in the interstate dissemination of CWD.

(1) To apply for a research animal permit, contact an APHIS employee or State representative and provide the following information:

(i) The name and address of the person to whom the special permit is issued, the address at which the research cervids to be moved interstate are being held, and the name and address of the person receiving the cervids to be moved interstate;

(ii) The number and type of cervids to be moved interstate;

(iii) The reason for the interstate movement;

(iv) Any safeguards in place to prevent transmission of CWD during movement or at the receiving location; and

(v) The date on which movement will occur.

(2) A copy of the research animal permit must accompany the cervids moved, and copies must be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination at least 72 hours prior to the arrival of the cervids at the destination listed on the research animal permit.

(e) *Interstate movements approved by the Administrator.* Notwithstanding any other provision of this part, interstate movement of farmed or captive deer, elk, and moose may be allowed on a case-by-case basis when the Administrator determines that adequate survey and mitigation procedures are in place to prevent dissemination of CWD and issues a permit for the movement.

§ 81.4 Issuance of certificates.

(a) *Information required on certificates.* A certificate must show any official animal identification numbers of each animal to be moved. A certificate must also show the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. The certificate must include a statement by the issuing accredited veterinarian, State veterinarian, or Federal veterinarian that the animals were not exhibiting clinical signs associated with CWD at the time of examination. The certificate must also include a statement that the animals are from a herd that has achieved Certified status in the CWD Herd Certification Program, and must provide the herd's program status, with the following exceptions:

(1) Certificates issued for animals captured from a wild population for interstate movement and release do not need to state that the animals are from a herd that has achieved Certified status in the CWD Herd Certification Program but must include the statement required in § 81.3(b); and

(2) Certificates issued for animals moved directly to slaughter do not need to state that the animals are from a herd that has achieved Certified status in the CWD Herd Certification Program and must state that an APHIS employee or State representative has been notified in advance of the date the animals are being moved to slaughter.

(b) *Animal identification documents attached to certificates.* As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who issued the document and the date the document was issued.

(Approved by the Office of Management and Budget under control number 0579–0237)

§ 81.5 Movement of deer, elk, or moose through a State to another State.

Farmed or captive deer, elk, or moose may be moved through a State or

locality whose laws or regulations on the movement of those animals are more restrictive than this part to another State under the following conditions:

(a) The farmed or captive deer, elk, or moose must be eligible to move interstate under § 81.3.

(b) The farmed or captive deer, elk, or moose must meet the entry requirements of the destination State listed on the certificate or permit accompanying the animal.

(c) Except in emergencies, the farmed or captive deer, elk, or moose must not be unloaded until their arrival at their destination.

§ 81.6 Federal preemption of State and local laws and regulations with respect to CWD.

State and local laws and regulations on farmed or captive deer, elk, or moose with respect to CWD that are more restrictive than the regulations in this part are not preempted by this part, except as described in § 81.5.

Done in Washington, DC, this May 31, 2012.

Edward Avalos,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2012–14186 Filed 6–12–12; 8:45 am]

BILLING CODE 3410–34–P



FEDERAL REGISTER

Vol. 77 Wednesday,
No. 114 June 13, 2012

Part IV

Department of Health and Human Services

42 CFR Part 88
World Trade Center Health Program; Addition of Certain Types of Cancer to the List of WTC-Related Health Conditions; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2012–0007; NIOSH–257]

42 CFR Part 88

RIN 0920–AA49

World Trade Center Health Program; Addition of Certain Types of Cancer to the List of WTC-Related Health Conditions

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 amended the Public Health Service Act (PHS Act) to establish the World Trade Center (WTC) Health Program. The WTC Health Program, which is administered by the Director of the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), provides medical monitoring and treatment to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania, and to eligible survivors of the New York City attacks. In accordance with our regulations, which establish procedures for adding a new condition to the list of health conditions covered by the WTC Health Program, this proposed rule would add certain types of cancer to the List of WTC-Related Health Conditions.

DATES: Comments must be received by July 13, 2012.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.
- *Facsimile:* (513) 533–8285.

Instructions: All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2012–007; NIOSH–257) or Regulation Identifier Number (0920–AA49) for this rulemaking. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.* For detailed instructions on submitting public comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov* or *http://www.cdc.gov/niosh/docket/archive/docket257.html.*

FOR FURTHER INFORMATION CONTACT: Frank J. Hearl, PE, Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Patriots Plaza, Suite 9200, 395 E St. SW., Washington, DC 20201. Telephone: (202) 245–0625 (this is not a toll-free number). Email: *WTCpublicinput@cdc.gov.*

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking is organized as follows:

I. Executive Summary
  A. Purpose of Regulatory Action
  B. Summary of Major Provisions
  C. Costs and Benefits
II. Public Participation
III. Background
  A. WTC Health Program Statutory Authority
  B. Addition of Health Conditions to the List of WTC-Related Health Conditions
  C. Need for Rulemaking
  D. Addition of Certain Types of Cancer to the List of WTC-Related Health Conditions
  1. Scientific/Technical Advisory Committee (STAC) Recommendations
  2. Administrator's Review of Available Scientific Information and the STAC's Recommendations
  3. Methods Used by the Administrator to Determine Whether to Add Cancer or Types of Cancer to the List of WTC-Related Health Conditions
  4. Administrator's Determination Concerning Petition 001
  5. Explanations for Adding Certain Types of Cancer to the List of WTC-Related Health Conditions
  6. Certification and Treatment of WTC-Related Health Conditions Including Types of Cancer
  7. Endnotes
  E. Effects of Rulemaking on Federal Agencies
IV. Summary of Proposed Rule
V. Regulatory Assessment Requirements
  A. Executive Order 12866 and Executive Order 13563
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act
  D. Small Business Regulatory Enforcement Fairness Act
  E. Unfunded Mandates Reform Act of 1995
  F. Executive Order 12988 (Civil Justice)
  G. Executive Order 13132 (Federalism)
  H. Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks)
  I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)
  J. Plain Writing Act of 2010
VI. Proposed Rule

I. Executive Summary

A. Purpose of Regulatory Action

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) establishing the World Trade Center (WTC) Health Program within the Department of Health and Human Services (HHS). The PHS Act requires the WTC Program Administrator (Administrator) to conduct rulemaking to propose the addition of a health condition to the List of WTC-Related Health Conditions (List) codified in 42 CFR 88.1 whether the Administrator adds a health condition based on the findings from periodic reviews of cancer,[1] based on a request from a petition, or based on a determination made at the Administrator's discretion that a proposed rule adding a condition should be initiated. Following a petition to add cancer or certain types of cancer to the List and a recommendation by the WTC Health Program's Scientific/Technical Advisory Committee (STAC), the Administrator is following the procedures established in 42 CFR 88.17 to add some, but not all types of cancer recommended by the petition.

B. Summary of Major Provisions

This rule modifies the List of WTC-Related Health Conditions in 42 CFR 88.1 to add the following conditions (types of cancer identified by ICD–10 code are specified in the discussion below):

- Malignant neoplasms of the lip, tongue, salivary gland, floor of mouth, gum and other mouth, tonsil, oropharynx, hypopharynx, and other oral cavity and pharynx
- Malignant neoplasm of the nasopharynx
- Malignant neoplasms of the nose, nasal cavity, middle ear, and accessory sinuses
- Malignant neoplasm of the larynx
- Malignant neoplasm of the esophagus
- Malignant neoplasm of the stomach
- Malignant neoplasm of the colon and rectum
- Malignant neoplasm of the liver and intrahepatic bile duct
- Malignant neoplasms of the retroperitoneum and peritoneum, omentum, and mesentery
- Malignant neoplasms of the trachea; bronchus and lung; heart, mediastinum and pleura; and other ill-defined sites in the respiratory system and intrathoracic organs

[1] See PHS Act, Title XXXIII § 3312(a)(5).

- Mesothelioma
- Malignant neoplasms of the soft tissues (sarcomas)
- Malignant neoplasms of the skin (melanoma and non-melanoma), including scrotal cancer
- Malignant neoplasm of the breast
- Malignant neoplasm of the ovary
- Malignant neoplasm of the urinary bladder
- Malignant neoplasm of the kidney
- Malignant neoplasms of renal pelvis, ureter and other urinary organs
- Malignant neoplasms of the eye and orbit
- Malignant neoplasm of the thyroid
- Malignant neoplasms of the blood and lymphoid tissues (including, but not limited to, lymphoma, leukemia, and myeloma)
- Childhood cancers
- Rare cancers

The Administrator developed a hierarchy of methods (detailed in section III.D of this preamble) for determining which cancers to propose for inclusion on the List of WTC-Related Health Conditions. HHS is seeking comments on the proposed methods in this rule.

C. Costs and Benefits

Annual costs, benefits, and transfers of this rule are listed in the table below. This analysis estimates the impact on WTC Health Program costs using the number of persons currently enrolled in the program as responders and survivors and assumes that the rate of cancer in the population will be equal to the U.S. population average rate. An alternative analysis considers the impact on costs if the Program enrolls additional persons up to the Program's statutory limits, and that the expanded population experiences a 21 percent higher rate of cancer than the U.S. population average. The basis for these assumptions is explained in detail in the preamble of this rulemaking.

Although we cannot quantify the benefits associated with the WTC Health Program, enrollees with cancer are expected to experience a higher quality of care than they would in the absence of the Program. Mortality and morbidity improvements for cancer patients expected to enroll in the WTC Health Program are anticipated because barriers may exist to access and delivery of quality health care services for cancer patients in the absence of the services provided by the WTC Health Program. HHS anticipates benefits to cancer patients treated through the WTC Health Program, who may otherwise not have access to health care services, to accrue in 2013. Starting in 2014, continued implementation of the Affordable Care Act will result in increased access to health insurance and improved health care services for the general responder and survivor population that currently is uninsured.

ESTIMATED ANNUAL WTC HEALTH PROGRAM COSTS, BENEFITS, AND TRANSFERS, 55,000 RESPONDERS AND 5,000 SURVIVORS AT U.S. POPULATION CANCER RATE, AND 80,000 RESPONDERS AND 30,000 SURVIVORS AT U.S. POPULATION CANCER RATE + 21 PERCENT, 2013–2016, 2011$

	Societal Costs for 2013, 2011$		Annualized Transfers for 2013–2016, 2011$	
	Based on the 16.3 percent of general responders and survivors who are expected to be uninsured		Discounted at 7 percent	Discounted at 3 percent
	Cancer Rate		Cancer Rate	
	U.S. Average	U.S. + 21%	U.S. Average	U.S. + 21%
55,000 Responders	$1,648,706	.....	$10,172,308	.....
5,000 Survivors	271,427	.....	1,572,907	.....
Colorectal and Breast Screening	204,491	.....	713,321	.....
60,000 Total	2,124,624	.....	12,458,535	.....
80,000 Responders	.....	$2,631,100	.....	$19,912,464
30,000 Survivors	.....	1,970,560	.....	12,124,118
Colorectal and Breast Screening	.....	417,521	.....	1,271,478
110,000 Total	.....	5,019,182	.....	33,308,060

Qualitative benefits:

Although we cannot quantify the benefits associated with the WTC Health Program, enrollees with cancer are expected to experience a higher quality of care than they would in the absence of the Program. Mortality and morbidity improvements for cancer patients expected to enroll in the WTC Health Program are anticipated because barriers may exist to access and delivery of quality health care services for cancer patients in the absence of the services provided by the WTC Health Program. HHS anticipates benefits to cancer patients treated through the WTC Health Program, who may otherwise not have access to health care services, to accrue in 2013. Starting in 2014, continued implementation of the Affordable Care Act will result in increased access to health insurance and improved health care services for the general responder and survivor population that currently is uninsured.

II. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, opinions, recommendations, and data. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. Comments are invited on any topic related to this proposed rule. The Administrator is seeking comments from the public on the following specific topics:

1. The four methods proposed to evaluate evidence for the addition of types of cancer to the List of WTC-Related Health Conditions;

2. Information or published studies about the type of welding that occurred in the New York City disaster area, at the Pentagon, or at Shanksville, Pennsylvania with regard to metal

cutting not involving exposure to ultraviolet light and welding involving ultraviolet light exposure; and

3. Information or published studies about work hours scheduling or shiftwork occurring in the New York City disaster area, at the Pentagon, or in Shanksville, Pennsylvania.

Comments submitted electronically or by mail should be titled ''Docket No. CDC–2012–0007; NIOSH–257,'' addressed to the ''NIOSH Docket Officer,'' and should identify the author(s) and contact information (such as return address, email address, or phone number), in case clarification is needed. Electronic and written comments can be submitted to the addresses provided in the **ADDRESSES** section, above. All communications received on or before the closing date for comments will be fully considered by the Administrator of the WTC Health Program.

III. Background

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [2] establishing the World Trade Center (WTC) Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania, and to eligible survivors of the New York City attacks.

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the NIOSH Director or his or her designee. Title XXXIII, § 3312(a)(6) of the PHS Act requires the Administrator to conduct rulemaking to propose the addition of a health condition to the List of WTC-Related Health Conditions (List) codified in 42 CFR 88.1.

B. Addition of Health Conditions to the List of WTC-Related Health Conditions

Under 42 CFR 88.17, the Administrator has established a process by which health conditions may be considered for addition to the List of WTC-Related Health Conditions in § 88.1. Pursuant to § 3312(a)(6) of Title XXXIII of the PHS Act, the Administrator is required to publish a notice of proposed rulemaking and allow interested parties to comment on the proposed rule. The proposed rule may be initiated by the Administrator whenever he or she determines that a proposed rule should be promulgated to add a health condition (*e.g.,* when a review of WTC Health Program monitoring data reveals the prevalence of a condition not previously identified in Title XXXIII or by the Program), on the basis of the WTC Health Program's periodic review of all available scientific and medical evidence of cancer or a certain type of cancer pursuant to § 3312(a)(5) of Title XXXIII, or in response to a petition submitted by an interested party. Upon receipt of a petition from an interested party to add a condition to the List of WTC-Related Health Conditions, the Administrator is authorized to request a recommendation of the WTC Health Program STAC; or publish a proposed rule to add such health condition; or publish the Administrator's determination not to publish a proposed rule and the basis for that determination; or to publish a determination that insufficient evidence exists to take action.

C. Need for Rulemaking

On September 7, 2011, the Administrator of the WTC Health Program received a written petition to add a health condition to the List of WTC-Related Health Conditions (Petition 001). Petition 001 requested that the Administrator ''consider adding coverage for cancer under the Zadroga Act'' to the List in § 88.1. [Maloney, *et al.* 2011]

On October 5, 2011, the Administrator formally exercised his option to request a recommendation from the STAC regarding the petition (PHS Act, Title XXXIII, § 3312(a)(6)(B)(i); 42 CFR 88.17(a)(2)(i)). The Administrator requested that the STAC ''review the available information on cancer outcomes associated with the exposures resulting from the September 11, 2001, terrorist attacks, and provide advice on whether to add cancer, or a certain type of cancer, to the List specified in the Zadroga Act.'' [Howard 2011] The background to this rulemaking and a discussion of the STAC's recommendation are provided below.

D. Addition of Certain Types of Cancer to the List of WTC-Related Health Conditions

To determine whether the scientific evidence is sufficient to support the addition of cancer or types of cancer to the List of WTC-Related Health Conditions, the Administrator considered data from five information sources: (1) Peer-reviewed studies published in the scientific literature, including environmental sampling data, epidemiologic studies on the 9/11 exposed populations, and studies providing evidence of a causal relationship between a type of cancer and a condition already on the List of WTC-Related Health Conditions; (2) findings and recommendations solicited from the WTC Clinical Centers of Excellence and Data Centers, the WTC Health Registry at the New York City Department of Health and Mental Hygiene, and the New York State Department of Health; (3) information from the public solicited through a request for information published in the **Federal Register** on March 8, 2011 and March 29, 2011; (4) the findings of the National Toxicology Program (NTP) in the National Institute of Environmental Health Sciences, HHS, as well as the World Health Organization's International Agency for Research on Cancer (IARC); and (5) findings from other sources of information relevant to 9/11 exposures, including the expert judgment and personal experiences of STAC members, and comments from the public.

NTP, an interagency program that evaluates agents of public health concern using toxicology and molecular biology, publishes the biennial Report on Carcinogens (RoC), which contains a list of human carcinogens, exposure information, and descriptions of Federal exposure limits.[3] The RoC classifies agents in one of two ways: *known to be a human carcinogen,* and *reasonably anticipated to be a human carcinogen;* this classification is determined by an expert panel convened for each candidate substance and is based on an evaluation of the published, peer-reviewed literature and reviews conducted by Federal agencies and IARC. Unlike IARC, NTP does not identify specific types of cancer that have sufficient evidence of carcinogenicity.

IARC, which coordinates and conducts research on the causes of human cancer and the mechanisms of carcinogenesis, maintains a series of

[2] Title XXXIII of the Public Health Service Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the World Trade Center Health Program and are codified elsewhere.

[3] NTP Report on Carcinogens (RoC). *http://ntp.niehs.nih.gov/?objectid=72016262-BDB7-CEBA-FA60E922B18C2540.* Accessed May 9, 2012.

Monographs on the carcinogenic risks to humans caused by chemicals, complex mixtures, occupational exposures, physical agents, biological agents, and lifestyle factors. In the Monographs, carcinogens are categorized according to whether they provide *sufficient* evidence of carcinogenicity in humans for a certain type of cancer (Group 1); or *limited* evidence of carcinogenicity in humans, including agents probably carcinogenic to humans (Group 2A) and agents possibly carcinogenic to humans (Group 2B); whether they are not classifiable as to carcinogenicity in humans (Group 3); or whether there is evidence suggesting lack of carcinogenicity (Group 4).[4] IARC convenes working groups of international experts to develop each Monograph based on reviews of epidemiological, animal, and mechanistic data ''that have been published or accepted for publication in the openly available scientific literature,'' although ''[i]n certain instances, government agency reports that have undergone peer review and are widely available are considered.'' [IARC 2006]

In July 2011, the Administrator released the *First Periodic Review of the Scientific and Medical Evidence Related to Cancer for the World Trade Center Health Program* (*First Periodic Review*). [NIOSH 2011] As required by Title XXXIII, § 3312(a)(5)(A) of the PHS Act, the Administrator reviewed ''all available scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions.'' As described in the *First Periodic Review,* environmental sampling identified 287 chemicals and chemical groups as present in the New York City disaster area (referred to herein as ''9/11 agents'' [5]). [COPC 2003] Published exposure assessments reviewed by the Administrator in the *First Periodic Review* ''suggest that responders and others in the nearby area were potentially exposed to one or more of the substances designated by IARC and NTP as known or reasonably anticipated human carcinogens, although generally not in excess of applicable occupational exposure limits.'' [NIOSH 2011]

At the time of publication, the *First Periodic Review* [NIOSH 2011] identified only one peer-reviewed article addressing the association of exposures arising from the September 11, 2001, terrorist attacks and cancer in responders and survivors, and two publications that used models to estimate the risk of cancer among residents in Lower Manhattan. The Administrator used a ''weight of the evidence'' approach to evaluate data derived from information sources (1)–(3), discussed above, and reported that insufficient evidence existed at that time to propose the addition of cancer or certain types of cancer to the List of WTC-Related Health Conditions.

In September 2011, an epidemiologic study was published in *The Lancet.* The study, by Rachel Zeig-Owens and colleagues, ''identified a modest effect of WTC exposure for all cancers combined by comparing the ratios in the exposed group [of Fire Department of New York City firefighters] to those in the non-exposed group.'' [Zeig-Owens, *et al.* 2011] This publication led to the submission of Petition 001.

In the petition, which was received shortly after publication of the Zeig-Owens study, the petitioners stated they ''read with great concern * * * the study conducted by the New York City Fire Department and published last week in *The Lancet* that indicated an elevated risk of melanoma, thyroid and prostate cancer, and non-Hodgkin lymphoma among firefighters who served at ground zero.'' While they ''feel strongly there must be a scientific basis for adding coverage for new conditions under the Zadroga Act,'' petitioners state that ''given the severity of the illnesses reported in *The Lancet,* we also want to make sure that this and other peer-reviewed studies linking cancers to the [September 11, 2001] attacks are evaluated as expeditiously as possible.'' [Maloney, *et al.* 2011]

Title XXXIII, § 3302(a)(1) establishes the STAC, and charges it to ''review scientific and medical evidence and to make recommendations to the Administrator on additional WTC Program eligibility criteria and on additional WTC-related health conditions.'' Accordingly, when asked by the Administrator to provide a recommendation on Petition 001, the STAC established evidentiary criteria and assessed the weight of the available scientific evidence provided by information sources (1), (4), and (5), described above. The STAC found support for including a number of types of cancer based in part on evidence of increased risk reported in Zeig-Owens.[6] The STAC also included a number of types of cancer based on the professional judgment of STAC members with scientific expertise, on the personal experience of some of the STAC members who were themselves WTC responders or survivors, and on comments made by the public.

Unlike the explicit language in Title XXXIII, § 3312(a)(5)(A) of the PHS Act, which prescribes the standard to be used in the periodic reviews of cancer, § 3312(a)(6) does *not* specifically limit the type of sources upon which the Administrator may base his or her determination to propose the addition of cancer or types of cancer to the List of WTC-Related Health Conditions. In this action, the Administrator's determination is based on the information sources used in the *First Periodic Review,* the NTP's RoC, the IARC Monographs, and from all other scientific information provided by the STAC, including the Zeig-Owens study which has been added to the peer-reviewed epidemiologic literature and is discussed below.

As discussed extensively below, the Administrator has adopted a formal methodology to evaluate the available scientific evidence. The formal methodology follows on criteria used by the STAC in its recommendation and is presented below, in section III.D.3.[7]

Based upon the new methodology, the Administrator proposes to add the types of cancer identified in section III.D.4., below, to the List of WTC-Related Health Conditions. The Administrator seeks comment on the methods developed, and the application of those methods, to add cancer or a type of cancer to the List of WTC-Related Health Conditions.

[4] WHO International Agency for Research on Cancer (IARC). *http://monographs.iarc.fr/.* Accessed May 8, 2012.

[5] Several other agents were recommended by the STAC, verified in the published literature, and are also considered 9/11 agents. The agents identified at the Pentagon and in Shanksville, Pennsylvania were reviewed but no additional agents were identified.

[6] Limitations of the Zeig-Owens study include: Limited information on specific exposures experienced by firefighters; short time for follow-up of cancer outcomes; speculation about the biological plausibility of chronic inflammation as a possible mediator between WTC-exposure and cancer outcomes; and potential unmeasured confounders.

[7] The Administrator's methodology does not incorporate the standard established in Title XXXIII, § 3312(a)(2) to determine whether an individual can be diagnosed with a WTC-related health condition—that individual standard requires a determination that the terrorist attacks ''were substantially likely to be a significant factor in aggravating, contributing to, or causing the [individual's] illness or health condition.'' The WTC Health Program regulations at 42 CFR 88.1 define the ''List of WTC-related health conditions'' differently than a ''WTC-related health condition'' [in an individual]. For more information on the topic of certification of an individual, see Section III.D.6. below.

1. STAC Recommendations

In response to the Administrator's October 5, 2011 request, the STAC met on three occasions—November 9–10, 2011, February 15–16, 2012, and March 28, 2012—to deliberate and develop recommendations on Petition 001 for the Administrator's consideration. The Administrator received the STAC recommendations on April 2, 2012. [STAC 2012]

In its April 2, 2012 recommendation to the Administrator, the chair of the STAC wrote that the STAC had:

> [R]eviewed available information on cancer outcomes that may be associated with the exposures resulting from the September 11, 2001, terrorist attacks, and believes that exposures resulting from the collapse of the buildings and high-temperature fires are likely to increase the probability of developing some or all cancers. This conclusion is based primarily on the presence of approximately 70 known and potential carcinogens in the smoke, dust, volatile and semi-volatile contaminants identified at the World Trade Center site. Fifteen of these substances are classified by the International Agency for Research on Cancer (IARC) as known to cause cancer in humans, and 37 are classified by the National Toxicology Program (NTP) as reasonably anticipated to cause cancer in humans; others are classified by IARC as probable and possible carcinogens. Many of these carcinogens are genotoxic and it is therefore assumed that any level of exposure carries some risk. [STAC 2012]

In its recommendation, the STAC also noted that ''exposure data are extremely limited.'' The STAC summarized the state of exposure assessment relevant to the terrorist attacks in New York City:

> No data were collected in the first 4 days after the attacks [in New York City], when the highest levels of air contaminants occurred, and the variety of samples taken on or after September 16, 2001 are insufficient to provide quantitative estimates of exposure on an individual or area level. However, the committee considers that the high prevalence of acute symptoms and chronic conditions observed in large numbers of rescue, recovery, cleanup and restoration workers and survivors, as well as qualitative descriptions of exposure conditions in downtown Manhattan, represent highly credible evidence that significant toxic exposures occurred. Furthermore, the salient biological reaction that underlies many currently recognized WTC health conditions—persistent inflammation—is now believed to be an important mechanism underlying cancer through generating DNA-reactive substances, increasing cell turnover, and releasing biologically active substances that promote tumor growth, invasion and metastasis.

In its recommendation to the Administrator, the STAC wrote:

> The committee deliberated on whether to designate all cancers as WTC-related conditions or to list only cancers with the strongest evidence. Some members proposed to include all cancers based on the incomplete and limited epidemiological data available to identify specific cancers, and others argued for the alternative of listing specific cancers based on best available evidence. The committee agreed to proceed by generating a list of cancers potentially related to WTC exposures based on evidence from three sources. [STAC 2012]

The STAC based its Petition 001 recommendation regarding the addition of certain types of cancer on evidence from four sources:

> 1. 9/11 agents (those known and potential carcinogens identified in the New York City disaster area) with *limited* or *sufficient* evidence of carcinogenicity in humans based on International Agency for Research on Cancer (IARC) Monographs on the Evaluation of Carcinogenic Risks to Humans [8];
>
> 2. Cancers arising from regions of the respiratory and digestive tracts where inflammatory conditions, such as gastroesophageal reflux disease (GERD), have been documented;
>
> 3. Cancers for which epidemiologic studies have found some evidence of increased risk in WTC responder and survivor populations; and
>
> 4. Findings from other sources of information relevant to 9/11 exposures and the potential occurrence of cancer, including the expert judgment and personal experiences of STAC members, and comments from the public.

Based on these four evidentiary sources, the STAC recommended to the Administrator that the following 14 cancer groups, encompassing many types of cancer, be added to the List of WTC-Related Health Conditions in 42 CFR 88.1:

> 1. Malignant neoplasms of the respiratory system (including nose, nasal cavity and middle ear, larynx, lung and bronchus, pleura, trachea, mediastinum, and other respiratory organs);
>
> 2. Certain cancers of the digestive system, including esophagus, stomach, colon and rectum, liver and intrahepatic bile duct, retroperitoneum, peritoneum, omentum, and mesentery;
>
> 3. Cancers of the oral cavity and pharynx, including lip, tongue, salivary gland, floor of mouth, gum and other mouth, nasopharynx, tonsil, oropharynx, hypopharynx and other oral cavity, and pharynx;
>
> 4. Soft tissue sarcomas;
>
> 5. Melanoma and non-melanoma skin cancers, including scrotal cancer;
>
> 6. Mesothelioma of the pleura and peritoneum;
>
> 7. Cancer of the ovary;
>
> 8. Cancers of the urinary tract, including urinary bladder, kidney and renal pelvis, ureter, and other urinary organs;
>
> 9. Cancer of the eye and orbit;
>
> 10. Thyroid cancer;
>
> 11. Lymphoma, leukemia, and myeloma;
>
> 12. Breast cancer;
>
> 13. Childhood cancers (all cancers diagnosed in persons less than 20 years old); and
>
> 14. Rare cancers.

In its recommendation to the Administrator, the STAC also made four additional points.

First, the STAC recommended that as new epidemiologic studies of 9/11-exposed populations become available, the studies' findings ''be reviewed and modifications made to the list as appropriate.'' [STAC 2012]

Second, the STAC recommended that the WTC Health Program provide funding and guidelines for medical screening and early detection of cancer and appropriate counseling. [STAC 2012]

Third, the STAC emphasized that although evidence of carcinogenicity of 9/11 agents from animal studies or mechanistic studies exists,

> because there is limited concordance between specific cancer sites affected in humans and in animals, only those substances classified based on human data are informative regarding organ sites of carcinogenicity in humans. [STAC 2012]

Fourth, the STAC noted:

> In addition to the evidence considered by the committee to identify potential WTC-related cancers, arguments in favor of listing cancer as a WTC-related condition include the presence of multiple exposures and mixtures with the potential to act synergistically and to produce unexpected health effects; the major gaps in the data with respect to the range and levels of carcinogens, the potential for heterogeneous exposures and hot spots representing exceptionally high or unique exposures both on the WTC site and in surrounding communities, the potential for bioaccumulation of some of the compounds, limitations of testing for carcinogenicity of many of the 287 agents and chemical groups cited in the first NIOSH Periodic Review, and the large volume of toxic materials present in the WTC towers. [STAC 2012]

Finally, the STAC stated that

> [A]lthough acknowledging some lack of certainty in the evidence for targeting specific organs or organ site groupings as WTC-related, the majority of the committee agreed that recommending the specified cancer sites and site groupings was based on a sound scientific rationale and the best evidence available to date. [STAC 2012]

2. Administrator's Review of Available Scientific Information and the STAC's Recommendations

The Administrator agrees with the STAC that individual exposure assessment information arising from the terrorist attacks is extremely limited and that its absence impairs definitive

[8] See IARC *http://monographs.iarc.fr/ENG/Monographs/PDFs/index.php.*

scientific analysis of the relationship between exposures arising from the attacks and the occurrence of any specific type of cancer. Also absent at the present time are multiple epidemiologic studies of cancer in exposed responders and survivors which definitively support an association between 9/11 exposures and specific types of cancer that would meet generally well-accepted criteria indicating that the association is a causal one.

As noted in the *First Periodic Review:*

> Drawing causal inferences about exposures resulting from the September 11, 2001, terrorist attacks and the observation of cancer cases in responders and survivors is especially challenging since cancer is not a rare disease. In the United States, the probability that a person will develop cancer during their lifetime is one in two for men and one in three for women [ACS 2010]. This 'background' rate of cancer development would be expected in responders and survivors even if the September 11, 2001, terrorist attacks had never occurred. Determining, then, if the September 11, 2001, exposures are contributing to an additional burden of cancer in responders and survivors is a scientific challenge. [NIOSH 2011]

Also noted in the *First Periodic Review,* an important framework used by epidemiologists to assess the causal nature of an observed association is the ''Bradford Hill criteria.'' [Hill 1965] The criteria are not intended to be a rigorous checklist, although they are often viewed in that way. None of the nine Bradford Hill criteria are alone sufficient to establish causation; together they can provide a starting point in evaluating whether an observed association is indeed a causal one. Five of those criteria are used by the Administrator in this rulemaking to evaluate evidence of a causal relationship between 9/11 exposures and a type of cancer: *Strength* of the association reported in the study between exposure agents and the type of cancer; *consistency* of the findings across multiple studies of exposed populations; *biological gradient* or dose-response relationship between exposures and the type of cancer; and *plausibility* and *coherence* of the findings with known facts about the biology of the type of cancer.[9]

Given the limitations of the current peer-reviewed scientific literature on cancer and 9/11 exposures, the Administrator agrees with the approaches the STAC used to recommend cancers for addition to the List of WTC-Related Health Conditions, but seeks additional information or published studies that are informative on the subject of adding certain types of cancer to the List of WTC-Related Health Conditions (Section III.D.5).

First, the STAC approach recommended including types of cancer for which IARC has categorized known 9/11 agents as having *sufficient* (Group 1 carcinogens) or *limited* (Group 2A *probable* carcinogens and Group 2B *possible* carcinogens) evidence for human carcinogenicity. IARC describes the evidence for carcinogenicity in humans as *sufficient* when a causal relationship has been established between exposure to the agent and human cancer. That is, a positive relationship has been observed between the exposure and a type of cancer in studies in which chance, bias, and confounding could be ruled out with reasonable confidence. IARC describes the evidence as *limited* when a positive association has been observed between the exposure and the cancer, and the IARC working group considered a causal interpretation to be credible but could not rule out chance, bias, or confounding with reasonable confidence. The Administrator has made the judgment that an IARC determination that the epidemiologic evidence for a 9/11 agent is *sufficient* or *limited* for a type of cancer qualifies the type for inclusion in the List of WTC-Related Health Conditions. The Administrator has further determined that evidence of exposure to 9/11 agents at any of the three sites—the New York City disaster area, the Pentagon, or Shanksville, Pennsylvania—qualifies for proposing the inclusion of a cancer type. The Administrator has also determined that cancers at sites in close anatomical proximity to sites proposed for inclusion under Method 3 (described in III.D.3., below) may also be added since it is often difficult to distinguish the cancer's anatomical origin especially when cancers from closely proximate sites are histopathologically indistinguishable.

Second, the STAC drew attention to types of cancers which arise in regions of the respiratory and digestive tracts where inflammatory conditions have been documented, some of which are health conditions already on the List of WTC-Related Health Conditions, including WTC-related health conditions of the upper and lower airway, and gastroesophageal reflux disease (GERD). The STAC cited several peer-review scientific publications about current scientific thinking on the relationship between inflammation and cancer.

The Administrator agrees that a type of cancer may be added to the List if there is well-established scientific support for a causal relationship between that cancer and a WTC-related health condition already on the List. For example, when a WTC-related health condition (*e.g.,* GERD) has been determined to be causally associated by means of multiple epidemiologic studies with the development of a particular type of cancer (*e.g.,* esophageal cancer), the cancer type can be added to the List of WTC-Related Health Conditions.

Third, the STAC included types of cancer based on an epidemiologic cohort study that identified a modest effect of WTC exposure for all cancers combined in exposed FDNY firefighters. [Zeig-Owens, *et al.* 2011] The STAC reviewed the Zeig-Owens study, which reported a 32 percent increase in the incidence of cancer among 9/11-exposed firefighters compared with non-exposed firefighters (Standardized Incidence Ratio (SIR) 1.32; 95% Confidence Interval (CI) 1.07–1.62). After correcting for possible surveillance bias, the increase was reduced to 21 percent (SIR 1.21; 95% CI 0.98–1.49). [Zeig-Owens, *et al.* 2011]

The Administrator believes that it is plausible that the overall rate of cancer cases in FDNY firefighters may have increased following those firefighters' exposures to 9/11 agents, but agrees with the authors of the Zeig-Owens study who noted there could be other explanations for the findings:

> We remain cautious in our interpretation of these findings because the time interval since 9/11 is short for cancer outcomes, the recorded excess of cancers is not limited to specific sites, and the biological plausibility of chronic inflammation as a possible mediator between WTC-exposure and cancer outcomes remains speculative. [Zeig-Owens, *et al.* 2011]

The Administrator notes that the STAC recommended inclusion of five site-specific cancer types based on findings in the Zeig-Owens study when the incidence of certain types of cancer in exposed firefighters was compared to non-exposed firefighters. These cancers are stomach, colon (excluding rectum), melanoma, non-Hodgkin lymphoma, and thyroid. The Zeig-Owens study is

[9] Four Bradford Hill criteria were not considered because, while useful in considering all sources of information, as the NTP and IARC reviews do, they have limited value when considering only the cancer epidemiologic studies of the 9/11-exposed population. *Analogy* establishes that if one exposure causes cancer, then a similar exposure should cause a similar cancer. This criterion is most useful with a large body of evidence. *Specificity* is not useful since many cancers are caused by multiple exposures. *Temporal relationship* establishes that exposure always precedes the outcome. *Experiment* establishes that the condition can be altered (prevented or ameliorated) by an appropriate experimental regimen.

the only published study of a 9/11-exposed population currently available for review and presents the risk estimates in multiple ways. The Administrator agrees with the authors of the Zeig-Owens study, who note that ''[s]ite-specific cancer SIR ratios (exposed versus non-exposed) were not significantly increased, although we noted a trend towards an increase in ten of 15 sites.'' [Zeig-Owens, *et al.,* 2011] The Administrator placed a different emphasis on an interpretation of the statistical significance of the findings than did the STAC, and considered only the cancer risk estimates that were corrected for surveillance bias and that utilized the more similar referent group, unexposed firefighters. The Administrator has made the judgment that only statistically significant findings will be used to support the proposed inclusion of a type of cancer using Method 1, however cancers can be added under Methods 2, 3, 4 (see III.D.3., below). At the same time, the Administrator understands the interpretation of the findings from the Zeig-Owens study about site-specific cancer rates used by the STAC to recommend that stomach, colon (excluding rectum), melanoma, non-Hodgkin lymphoma, and thyroid be included on the List of WTC-Related Health Conditions.

Fourth, the STAC also considered findings from sources of information relevant to 9/11 exposures (including the expert judgment and personal experiences of STAC members, and comments from the public) and the potential occurrence of cancer.

The Administrator considered the approaches used in the *First Periodic Review* and also the approaches used by the STAC to evaluate the available scientific evidence. In order to determine whether to propose a type of cancer for inclusion on the List, the Administrator sought to develop a method that would assist with characterizing 9/11 exposures and the likelihood of developing cancer or a type of cancer. One approach considered was to rely exclusively on a weight of evidence evaluation of the epidemiologic literature. In this approach, accumulated evidence from four types of studies (*i.e.,* cohort, cross sectional, case-control, and case series) would be evaluated to develop insight into historic exposures and the risk of developing cancer or a type of cancer. Utilization of this approach would be consistent with the approach described by the Administrator in the *First Periodic Review* of cancer, a portion of the methodology adopted by the STAC, and Method 1 described in section III.D.3., below. However, evaluation of the epidemiologic literature is limited by both the lack of exposure data available for the days immediately after the collapse of the WTC Towers and the insufficient time for differences in cancer incidence and mortality to be detected in 9/11-exposed populations. Additional approaches were adopted to compensate for both of these limitations. Method 2 recognizes that certain WTC-related health conditions may progress to cancer. Method 3 is a qualitative approach that uses concordance between two authoritative reviews of peer-reviewed literature (NTP and IARC) as a threshold to characterize the likelihood of 9/11 agents to cause cancer in humans. Method 4 relies on the work of the STAC in providing a reasonable basis for adding a type of cancer in addition to those identified under Methods 1–3.

3. Methods Used by the Administrator To Determine Whether To Add Cancer or Types of Cancer to the List of WTC-Related Health Conditions

The Administrator developed the following hierarchy of methods for determining whether to add cancer or types of cancer to the List of WTC-Related Health Conditions in 42 CFR 88.1. In determining whether to propose that a type of a cancer be included on the List, a review of the evidence must demonstrate fulfillment of at least one of the following four methods:

▪ Method 1. Epidemiologic Studies of September 11, 2001 Exposed Populations. A type of cancer may be added to the List if published, peer-reviewed epidemiologic evidence supports a causal association between 9/11 exposures and the cancer type. The following criteria extrapolated from the Bradford Hill criteria will be used to evaluate the evidence of the exposure-cancer relationship:

- *strength* of the association between a 9/11 exposure and a health effect (including the magnitude of the effect and statistical significance);
- *consistency* of the findings across multiple studies;
- *biological gradient,* or dose-response relationships between 9/11 exposures and the cancer type; and
- *plausibility* and *coherence* with known facts about the biology of the cancer type. If only a single published epidemiologic study is available for review, the consistency of findings cannot be evaluated and strength of association will necessarily place greater emphasis on statistical significance than on the magnitude of the effect.

▪ Method 2. Established Causal Associations. A type of cancer may be added to the List if there is well-established scientific support published in multiple epidemiologic studies for a causal association between that cancer and a condition already on the List of WTC-Related Health Conditions.

▪ Method 3. Review of Evaluations of Carcinogenicity in Humans. A type of cancer may be added to the List only if *both* of the following criteria for Method 3 are satisfied:

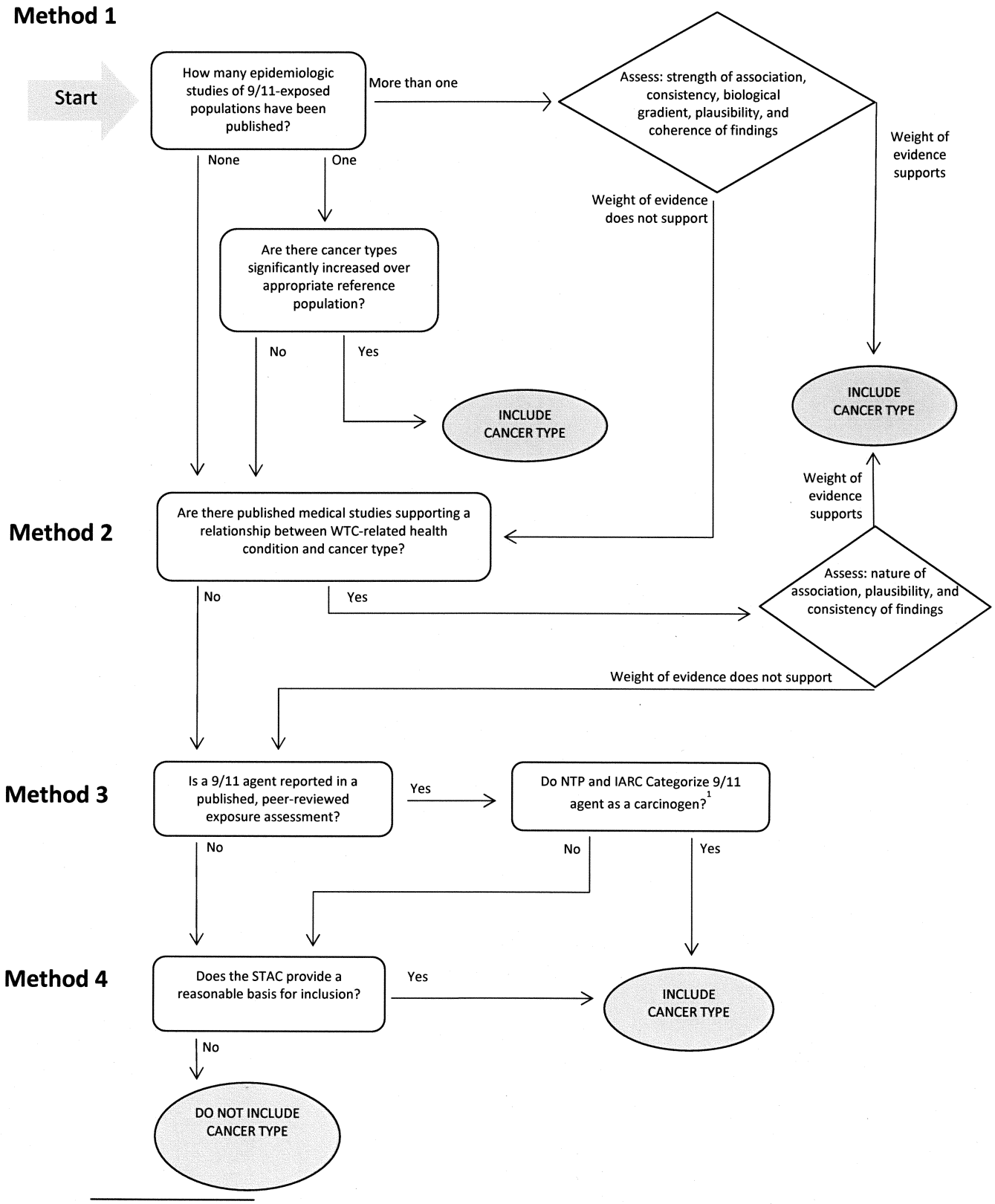
3A. Published Exposure Assessment Information. 9/11 agents were *reported* in a published, peer-reviewed exposure assessment study of responders or survivors who were present in either the New York City disaster area as defined in 42 CFR 88.1, or at the Pentagon, or in Shanksville, Pennsylvania; and

3B. Evaluation of Carcinogenicity in Humans from Scientific Studies. NTP has determined that the 9/11 agent is *known to be a human carcinogen* or is *reasonably anticipated to be a human carcinogen,* and IARC has determined there is *sufficient* or *limited* evidence that the 9/11 agent causes a type of cancer.

▪ Method 4. Review of Information Provided by the WTC Health Program Scientific/Technical Advisory Committee. A type of cancer may be added to the List if the STAC has provided a reasonable basis for adding a type of cancer and the basis for inclusion does not meet the criteria for Method 1, Method 2, or Method 3.

The Administrator invites comment on this methodology and its implementation. The following schematic illustrates the methodology used in this rulemaking.

BILLING CODE P



[1] NTP has determined that the 9/11 agent is *known to be a human carcinogen* or *reasonably anticipated to be a human carcinogen*, and IARC has determined there is *sufficient* or *limited* evidence that the 9/11 agent causes a type of cancer.

4. Administrator's Determination Concerning Petition 001

Using the evidentiary standards established above for inclusion of a cancer on the List of WTC-Related Health Conditions in 42 CFR 88.1, the Administrator reviewed the scientific evidence referenced in the *First Periodic Review* [NIOSH 2011], Petition 001, and in the STAC's April 2, 2012 recommendations to the Administrator.[10] Accordingly, the Administrator proposes to add the specific types of cancers in Table A, below, to the List of WTC-Related Health Conditions in 42 CFR 88.1.

BILLING CODE P

[10] Transcripts and recordings of the STAC meetings are available in NIOSH Docket 248 *http://www.cdc.gov/niosh/docket/archive/docket248.html.* Accessed April 20, 2012.

Table A -- Types of cancer proposed for inclusion in 42 CFR 88.1, List of WTC-Related Health Conditions

Type of cancer	ICD-10 Code	Evidence Used by the Administrator to Add a Type of Cancer				
		Method 1	Method 2	Method 3		Method 4
		9/11 Exposed Population Study	WTC-related health condition	Exposure Agent(s)[1]	IARC Categorization	STAC Recommendation
Head & Neck						
Lip	C00	---	---	Asbestos[2]	Limited	---
Tongue	C01,C02	---	---	Asbestos[2]	Limited	---
Parotid and Salivary gland	C07,C08	---	---	Asbestos[2]	Limited	---
Floor of mouth	C04	---	---	Asbestos[2]	Limited	---
Gum, palate and other mouth	C03,C05 C06	---	---	Asbestos[2]	Limited	---
Tonsil	C09	---	---	Asbestos[2]	Limited	---
Oropharynx	C10	---	---	Asbestos[2]	Limited	---
Piriform sinus and hypopharynx	C12,C13	---	---	Asbestos[2]	Limited	---
Other oral cavity and pharynx	C14	---	---	Asbestos	Limited	---
Nasopharynx	C11	---	---	Formaldehyde	Sufficient	---
Nasal cavity	C30	---	---	Nickel	Sufficient	---
Accessory sinuses	C31	---	---	Nickel	Sufficient	---
Larynx	C32	---	---	Strong inorganic acid mists, Asbestos	Sufficient	---
Digestive System						

Esophagus	C15	---	Gastro-esophageal reflux disease	---	---	---	---
Stomach	C16	---	---	Asbestos	Limited	---	
				Lead	Limited	---	
Colon and rectum	C18, C19, C20 C26.0, C26.8-C26.9	---	---	Asbestos	Limited	---	
Liver and intrahepatic bile duct	C22	---	---	Vinyl chloride	Sufficient	---	
				Arsenic and inorganic arsenic compounds, polychlorinated biphenyls, trichloroethylene	Limited	---	
Retroperitoneum and peritoneum	C48	---	---	Asbestos[2]	Limited	---	
Respiratory System							
Trachea	C33	---	---	Arsenic and inorganic arsenic compounds, Asbestos, Beryllium and beryllium compounds, Cadmium and cadmium compounds, Nickel compounds, Silica dust, crystalline	Sufficient	---	
Bronchus and lung	C34	---	---	Arsenic and inorganic arsenic compounds, Asbestos, Beryllium and beryllium compounds, Cadmium and cadmium compounds, Nickel compounds, Silica dust, crystalline	Sufficient	---	

Heart, mediastinum, and pleura	C38	---	---	Arsenic and inorganic arsenic compounds, Asbestos, Beryllium and beryllium compounds, Cadmium and cadmium compounds, Nickel compounds, Silica dust, crystalline[2]	Sufficient	---
Other and ill-defined sites in the respiratory system and intrathoracic organs	C39	---	---	Arsenic and inorganic arsenic compounds, Asbestos, Beryllium and beryllium compounds, Cadmium and cadmium compounds, Nickel compounds, Silica dust, crystalline[2]	Sufficient	---
Mesothelium						
Mesothelioma	C45	---	---	Asbestos	Sufficient	---
Soft Tissues						
Sarcoma	C47,C49	---	---	2,3,7,8-tetrachlorodibenzeno-para-dioxin	Limited	---
Skin						
Non-melanoma skin cancers including scrotal cancer	C44, C63.2	---	---	Arsenic and inorganic arsenic compounds, Soot	Sufficient	---
Melanoma	C43	---	---	---	---	STAC recommendation
Breast						
Breast	C50	---	---	---	---	STAC recommendation
Female Reproductive Organs						
Malignant neoplasm of ovary	C56	---	---	Asbestos	Sufficient	---

Urinary System						
Urinary bladder	C67	---	---	Arsenic and inorganic arsenic compounds	Sufficient	---
Kidney	C64	---	---	Arsenic and inorganic arsenic compounds, Cadmium and cadmium compounds	Limited	---
Renal pelvis	C65	---	---	Arsenic and inorganic arsenic compounds[2]	Limited	---
Ureter	C66	---	---	Arsenic and inorganic arsenic compounds[2]	Limited	---
Other urinary organs	C68	---	---	Arsenic and inorganic arsenic compounds[2]	Limited	---
Eye and Orbit						
Eye and orbit	C69	---	---	---	---	STAC recommendation
Thyroid						
Thyroid	C73	---	---	---	---	STAC recommendation
Blood and Lymphoid Tissue						
Hodgkin's disease	C81	---	---	1,3-Butadiene	Sufficient	---
Follicular [nodular] non-Hodgkin lymphoma	C82	---	---	1,3-Butadiene	Sufficient	---
Diffuse non-Hodgkin lymphoma	C83	---	---	1,3-Butadiene	Sufficient	---
Peripheral and cutaneous T-cell lymphomas	C84	---	---	1,3-Butadiene	Sufficient	---
Other and unspecified types of non-Hodgkin	C85	---	---	1,3-Butadiene	Sufficient	---

lymphoma							
Malignant immuno-proliferative diseases	C88	---	---	1,3-Butadiene	Sufficient	---	
Multiple myeloma and malignant plasma cell neoplasms	C90	---	---	1,3-Butadiene	Sufficient	---	
Lymphoid leukemia	C91	---	---	1,3-Butadiene, Formaldehyde	Sufficient	---	
Myeloid leukemia	C92	---	---	1,3-Butadiene, Benzene, Formaldehyde	Sufficient	---	
Monocytic leukemia	C93	---	---	1,3-Butadiene, Formaldehyde	Sufficient	---	
Other leukemias of specified cell type	C94	---	---	1,3-Butadiene, Formaldehyde	Sufficient	---	
Leukemia of unspecified cell type	C95	---	---	1,3-Butadiene, Formaldehyde	Sufficient	---	
Other and unspecified malignant neoplasms of lymphoid, hematopoietic and related tissue	C96	---	---	1,3-Butadiene	Sufficient	---	
Childhood Cancers							
Childhood cancers defined as all cancers diagnosed in	Many	---	---	---	---	STAC recommendation	

persons less than 20 years old.[3]						
Rare Cancers						
Rare cancers based on age-specific incidence rates by gender, decade of age, site and histology. Site-histology combinations to be considered as unique cancers should be determined a priori in consultation with appropriate experts.[3]	Many	---	---	---	---	STAC recommendation

1. Each agent listed was categorized as a carcinogen by NTP and IARC
2. Cancers at sites in close anatomical proximity to sites added under Method 3 will also be added since it is often difficult to distinguish the cancer's anatomical origin especially when cancers from closely proximate sites are histopathologically indistinguishable.
3. As described by STAC

5. Explanations for Adding Certain Types of Cancer to the List of WTC-Related Health Conditions

The Administrator's rationale and the method relied upon for inclusion of each type of cancer are offered below. The types of cancer proposed by the Administrator are grouped by anatomical region, for ease of discussion, and are identified by their individual ICD–10 code.[11] [WHO 1997] The ICD–9 codes associated with each specific type of cancer are identified in the regulatory text.

Cancers of the Head and Neck. For the reasons discussed below for each type, the Administrator proposes the inclusion of cancers found in the lip, tongue, salivary gland, floor of mouth, gum and other mouth, tonsil, oropharynx, nasopharynx, hypopharynx, other oral cavity and pharynx, nasal cavity, accessory sinuses, and the larynx.

▪ *Malignant neoplasms of the lip [C00], tongue [C01, C02], salivary gland [C07, C08], floor of mouth [C04], gum and other mouth [C03, C05, C06], tonsil [C09], oropharynx [C10], hypopharynx [C12, C13], other oral cavity and pharynx [C14]:* (Method 3) IARC has determined that there is *limited* evidence that asbestos causes cancer of other oral cavity and pharynx. The review of published exposure assessment studies has not identified any 9/11 exposure agent associated with cancers of the lip, tongue, salivary gland, floor of mouth, gum and other mouth, tonsil, oropharynx, and hypopharynx. The Administrator has determined that the types of cancer proposed to be added in the Head and Neck group under Method 3 share an anatomic continuum and can be included with other head and neck group types of cancer.

▪ *Malignant neoplasm of the nasopharynx [C11]:* (Method 3) The review of published exposure assessment studies identified formaldehyde as present in the New York City disaster area. [COPC 2003] IARC has determined that results of epidemiologic studies of exposure by inhalation to formaldehyde provide *sufficient* epidemiological evidence that formaldehyde causes nasopharyngeal cancer in humans. [IARC 2012c]

▪ *Malignant neoplasms of the nasal cavity [C30] and accessory sinuses [C31]:* (Method 3) The review of published exposure assessment studies identified nickel and hexavalent chromium compounds as present in the New York City disaster area. [Lioy, *et al.* 2002; COPC 2003; Lorber, *et al.* 2007] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiological evidence that nickel compounds cause cancer of the nose and nasal sinuses in humans. [IARC 2012a]

▪ *Malignant neoplasm of the larynx [C32]:* (Method 3) The review of published exposure assessment studies identified asbestos and sulfuric acid as present in the New York City disaster area. [Lioy, *et al.* 2002; COPC 2003; Lorber, *et al.* 2007] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiological evidence that all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) cause cancer of the larynx in humans. [IARC 2012a] IARC has determined that the results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiological evidence that strong inorganic acids including sulfuric acid cause cancer of the larynx.

Cancers of the Digestive System. For the reasons discussed below for each site, the Administrator proposes the inclusion of cancers found in the esophagus; stomach; colon and rectum; liver and intrahepatic bile duct; retroperitoneum; and peritoneum.

▪ *Malignant neoplasms of the esophagus [C15]:* (Method 2) There is well-accepted evidence that symptoms of an already-covered WTC-related health condition—gastroesophageal reflux disease (GERD)—increases the risk of developing esophageal cancer. Persons with recurring symptoms of reflux have an eightfold increase in the risk of esophageal adenocarcinoma. [Lagergren, *et al.,* 1999]

▪ *Malignant neoplasm of the stomach [C16]:* (Method 3) The review of published exposure studies identified asbestos and inorganic compounds of lead as present in the New York City disaster area. [COPC 2003] IARC has determined that the results of epidemiologic studies of exposure by inhalation and/or ingestion provide *limited* evidence that all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) cause cancer of the stomach in humans. [IARC 2012a] IARC has also determined that there is *limited* evidence that exposure to inorganic lead causes cancer of the stomach. [Cogliano, *et al.* 2011; IARC 2006]

▪ *Malignant neoplasms of the colon (and rectum) [C18, C19, C20, C26.0]:* (Method 3) The review of published exposure assessment studies identified asbestos as present in the New York City disaster area. [COPC 2003] IARC has determined that the results of epidemiologic studies of exposure by inhalation provide *limited* epidemiologic evidence that all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) cause cancer of the colon and rectum in humans. [Cogliano, *et al.* 2011]

▪ *Malignant neoplasms of the liver and intrahepatic bile duct [C22]:* (Method 3) The review of published exposure assessment studies identified vinyl chloride, arsenic and inorganic arsenic compounds, polychlorinated biphenyls, and trichloroethylene as present in the New York City disaster area. [COPC 2003] Arsenic and vinyl chloride are classified as *known human carcinogens* by IARC and NTP. For arsenic, IARC identifies the evidence for causality of cancer of the liver and intrahepatic duct as *limited* and classifies the evidence for carcinogenicity of vinyl chloride as *sufficient* to cause angiosarcomas of the liver and hepatocellular carcinomas. For polychlorinated biphenyls and trichloroethylene exposure, IARC characterizes the evidence as *limited* for causation of cancer of the liver. [Cogliano, *et al.* 2011]

▪ *Malignant neoplasms of the retroperitoneum and peritoneum [C48]:* The review of published exposure assessment studies has not associated any 9/11 agent with cancer of the retroperitoneum, peritoneum, omentum, and mesentery. The Administrator has determined that the types of cancer proposed to be added in the digestive system under Method 3 share an anatomic continuum and can be included together with other added digestive system types of cancer.

Cancers of the Respiratory System. For the reasons discussed below for each site, the Administrator proposes the inclusion of cancers found in the trachea; bronchus and lung; heart; and other and ill-defined sites in the respiratory system and intrathoracic organs.

▪ *Malignant neoplasms of the trachea [C33]; bronchus and lung [C34]; heart, mediastinum and pleura [C38]; and other ill-defined sites in the respiratory system and intrathoracic organs [C39]:* (Method 3) The review of published exposure assessment studies identified arsenic, asbestos, beryllium, cadmium, nickel, and silica as present in the New York City disaster area. [COPC 2003;

[11] The International Classification of Diseases (ICD) is used to code and classify injuries and diseases and their signs, symptoms, and external causes for statistical presentation, disease analysis, hospital records indexing, and medical billing reimbursement.

Lioy, *et al.* 2002; Wallingford and Snyder 2001] IARC has determined that there is *sufficient* evidence in humans for the carcinogenicity of mixed exposure to inorganic arsenic compounds, including arsenic trioxide, arsenite, and arsenate. Inorganic arsenic compounds, including arsenic trioxide, arsenite, and arsenate, cause cancer of the lung and intrathoracic organs. [IARC 2012a] IARC has determined that there is *sufficient* evidence in humans that inhalation exposure to all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) causes cancer of the lung and intrathoracic organs (including C33, C34, C38, and C39). IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiological evidence that beryllium and beryllium compounds cause cancer of the lung and intrathoracic organs. [IARC 2012a] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiologic evidence that cadmium and cadmium compounds cause cancer of the lung and intrathoracic organs in humans. [Cogliano, *et al.* 2011; IARC 2012a] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiologic evidence that nickel compounds and nickel metal cause cancer of the lung and intrathoracic organs in humans. [Cogliano, *et al.* 2011; IARC 2012a] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiologic evidence that crystalline silica in the form of quartz causes cancer of the lung and intrathoracic organs in humans. IARC has also determined that there is *sufficient* evidence in humans that soot causes cancer of the lung. [IARC 2012c] In addition, IARC has determined that strong inorganic acids, welding fumes, diesel exhaust and 2,3,7,8-tetrachlorodibenzo-para-dioxin have *limited* evidence for causing cancer of the respiratory system.

Cancer of the Mesothelium. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the mesothelium.

- *Mesothelioma [C45]:* (Method 3) The review of published exposure assessment studies identified asbestos as present in the New York City disaster area. [Lioy, *et al.* 2002; COPC 2003; Lorber, *et al.* 2007] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiologic evidence that all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) cause mesothelioma in humans. [IARC 2012a]

Cancer of the Soft Tissues. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the soft tissues.

- *Malignant neoplasm of peripheral nerves and autonomic nervous system [C47) and malignant neoplasm of other connective and soft tissue [C49]:* (Method 3) The review of published exposure assessment studies identified 2,3,7,8-tetrachlorodibenzo-para-dioxin as present in the New York City disaster area. [COPC 2003] IARC has found *limited* evidence for increased risk of soft tissue sarcoma associated with exposure to 2,3,7,8-tetrachlorodibenzo-para-dioxin.

Cancer of the Skin (non-melanoma and melanoma), including scrotum. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the skin.

- *Other malignant neoplasms of skin (non-melanoma) [C44], malignant melanoma of skin [C43], and malignant neoplasm of scrotum [C63.2]:* (Method 3 and 4) The review of published exposure assessment studies identified arsenic and soot as present in the New York City disaster area [COPC 2033). Both NTP and IARC determined that arsenic [IARC 2012c] and occupational exposure to soot [IARC 2012c] are *known human carcinogens* and that there is *sufficient* evidence that they cause non-melanoma skin cancer.

The STAC recommended including melanoma based on its interpretation of the Zeig-Owens study. The STAC stated:

> the Zeig-Owens study found a statistically significant increase in melanoma among exposed firefighters compared to the general population; the Standardized Incidence Ratio (SIR) was slightly larger but not significant when compared to non-exposed firefighters. No adjustment for surveillance bias was reported for malignant melanoma, although early detection through medical surveillance is likely.

Because the Zeig-Owens finding for melanoma was not statistically significant (when compared to non-exposed firefighters), the Administrator cannot propose to add melanoma to the List of WTC-Related Health Conditions based on Method 1. Melanoma is proposed for inclusion based on Method 4. The Administrator will continue to monitor cohort studies that address site-specific cancers such as melanoma in 9/11-exposed populations.

Cancer of the Breast. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the breast.

- *Malignant neoplasm of the breast [C50]:* (Method 4) The STAC recommended inclusion of breast cancer based on the professional judgment and personal experience of STAC members and on public comments. The STAC stated

> There is evidence of PCB exposures to WTC responders and survivors based on air samples, window film samples and one biomonitoring study. Studies have linked total and congener-specific PCB levels in serum and adipose tissue with breast cancer, although evidence has been conflicting. PCBs and some other substances at the WTC site are endocrine disruptors. Breast cancer risks are highly related to hormonal factors, including endogenous and exogenous estrogens, and could plausibly be affected by endocrine disruptors. A recent study found that PCBs enhanced the metastatic properties of breast cancer cells by activating rho-associated kinase. Shiftwork involving circadian rhythm disruption has been classified by IARC as probably carcinogenic to humans, based in part on epidemiologic studies associating shiftwork with increased risks of breast cancer. Both shiftwork and long shifts were common for workers involved in rescue, recovery, clean up, restoration and other activities at the WTC site. [STAC 2012, references omitted]

The STAC further noted the lack of opportunity to find evidence for breast cancer among exposed occupations because so few women work in the occupations mainly involved with response work in the New York City disaster area, at the Pentagon, and in Shanksville, Pennsylvania.

Shiftwork has been classified by IARC as *probably* carcinogenic based in part on *limited* evidence in humans demonstrating an increased risk of breast cancer among shift workers. IARC notes that mechanistic studies suggest that exposure to light at night may increase the risk of breast cancer by suppressing the normal nocturnal production of melatonin, which in turn, may alter gene expression in cancer-related pathways. [Straif, *et al.* 2007] NTP has not yet examined the evidence for an association of shiftwork and breast cancer, however, NTP recently requested comment from the public whether shiftwork involving light at night should be nominated for possible review for future editions of the RoC. [NTP 2012] The Administrator is not aware of any published exposure assessment study of shiftwork and 9/11, although the Administrator is aware that extended work hours for many responders occurred at all three 9/11 sites over several months. The Administrator proposes to add breast cancer to the List of WTC-Related Health Conditions based on Method 4, and continues to seek information about

any exposures in the New York City disaster area, at the Pentagon, or in Shanksville, Pennsylvania that would further support adding breast cancer to the List of WTC-Related Health Conditions.

Cancer of the Female Reproductive Organs. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the ovary.

▪ *Malignant neoplasm of the ovary [C56]:* (Method 3) The review of published exposure assessment studies identified asbestos as present in the New York City disaster area. [Lioy, *et al.* 2002; COPC 2003; Lorber, *et al.* 2007] IARC has determined that results of epidemiologic studies of exposure by inhalation provide *sufficient* epidemiological evidence that all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite) cause cancer of the ovary in humans, based on five strongly positive cohort mortality studies of women with heavy occupational exposure to asbestos. [IARC 2012a]

Cancers of the Urinary System. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the urinary bladder, kidney, renal pelvis, ureter and other urinary organs.

▪ *Malignant neoplasm of the urinary bladder [C67]:* (Method 3) The review of published exposure assessment studies identified arsenic, inorganic arsenic, diesel exhaust and soot as present in the New York City disaster area. Both NTP and IARC determined that arsenic is *known to be a human carcinogen* [IARC 2012a], and IARC has determined there is *limited* evidence that diesel engine exhaust and soot cause cancer of the urinary bladder.

▪ *Malignant neoplasm of the kidney [C64]:* (Method 3) The review of published exposure assessment studies identified arsenic, inorganic arsenic compounds, and cadmium and cadmium compounds as present in the New York City disaster area. [COPC 2003] The evidence for carcinogenicity of inorganic arsenic compounds and cadmium are categorized as *limited* by IARC and NTP, which meets the requirements for inclusion based on Method 3.

▪ *Malignant neoplasm of the renal pelvis, ureter and other urinary organs [C65, C66 and C68]:* (Method 3) The Administrator has determined that the types of cancer proposed to be added in the urinary system under Method 3 share an anatomic continuum and can be included together with other added urinary system types of cancer.

Cancer of the Eye and Orbit. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the eye and orbit.

▪ *Malignant neoplasm of the eye and orbit [C69]:* (Method 4) Cancers of the eye and eye orbit are not addressed in the only published epidemiologic study of September 11, 2001 exposed populations to date (Method 1). The STAC noted that eye irritation from dust was ubiquitous in the New York City disaster area and postulated an association between irritation from dust and cancers of the eye and eye orbit. However, irritation has not been associated with cancers of the eye and eye orbit in the published literature (Method 2). The STAC also noted that IARC determined the evidence is *sufficient* for welding to cause ocular melanoma by occupational exposure to ultraviolet radiation. The review of published exposure assessment studies identified metal cutting as occurring in the New York City disaster area, but the exposure assessment literature is silent about welding involving ultraviolet light exposure. The Administrator proposes to add cancer of the eye and orbit based on Method 4, but seeks information on welding activities in the New York City disaster area, at the Pentagon, or in Shanksville, Pennsylvania, including information on the types of welding, frequency, and locations to better understand the nature of the exposures that occurred that could further support adding cancer of the eye and orbit to the List of WTC-Related Health Conditions.

Cancer of the Thyroid. For the reasons discussed below, the Administrator proposes the inclusion of cancer found in the thyroid.

▪ *Malignant neoplasm of thyroid gland [C73]:* (Method 3) The STAC recommended thyroid cancer for inclusion, noting that it has not been associated with any of the agents known to be present in the New York City disaster area. The primary evidence that the STAC based its recommendation for inclusion on was ''an excess in risk [for thyroid cancer] from the Zeig-Owens study.'' [STAC 2012] Even though the Administrator views the significance of the Zeig-Owens finding relating to thyroid cancer differently than does the STAC, the Administrator proposes to add thyroid cancer to the List of WTC-Related Health Conditions based on Method 4. The Administrator will continue to monitor cohort studies that address site-specific cancer in 9/11-exposed populations.

Cancers of the Blood and Lymphoid Tissue. For the reasons discussed below for each type, the Administrator proposes adding malignant neoplasms of the blood and lymphoid tissues, including, but not limited to, lymphoma, leukemia, and myeloma.

▪ *Hodgkin's disease [C81]; follicular [nodular] non-Hodgkin lymphoma [C82]; diffuse non-Hodgkin lymphoma [C83]; peripheral and cutaneous T-cell lymphomas [C84]; other and unspecified types of non-Hodgkin lymphoma [C85]; malignant immunoproliferative diseases [C88]; multiple myeloma and malignant plasma cell neoplasms [C90]; lymphoid leukemia [C91]; myeloid leukemia [C92]; monocytic leukemia [C93]; other leukemias of specified cell type [C94]; leukemia of unspecified cell type [C95]; other and unspecified malignant neoplasms of lymphoid, hematopoietic and related tissue [C96]:* (Method 3) The review of published exposure assessment studies identified benzene [Lorber, *et al.* 2007; Wallingford and Snyder 2001], 1,3-butadiene [Lorber, *et al.* 2007; Wallingford and Snyder 2001], and formaldehyde [COPC 2003] as present in the New York City disaster area. IARC determined that there is *sufficient* evidence that exposure to 1,3-butadiene causes cancer of the hematolymphatic organs. IARC considers hematolymphatic cancers attributable both to leukemia and malignant lymphoma. The IARC working group recognized that the epidemiological evidence for an association with specific subtypes of hematolymphatic cancers is weaker, but when malignant lymphomas and leukemias are distinguished, the evidence is strongest for leukemia. [IARC, 2012c] IARC also determined that there is *sufficient* evidence that exposure to benzene causes acute myeloid leukemia and acute non-lymphocytic leukemia. [Cogliano, *et al.* 2011; IARC 2012c] IARC has determined that results of epidemiological studies of exposure by inhalation provide *sufficient* epidemiological evidence that formaldehyde causes leukemia in humans. [Cogliano, *et al.* 2011; IARC 2012c] In addition, IARC has determined that there is *limited* evidence in humans that styrene, tetrachloroethylene, trichloroethylene, and 2,3,7,8-tetrachlorodibenzo-para-dioxin cause leukemia. For the reasons discussed above, the Administrator intends to include all hematolymphatic cancers.

Childhood Cancers. (Method 4) The STAC recommended that childhood cancers be included on the List of WTC-Related Health Conditions based on the ''unique vulnerability of children to synthetic chemicals'' and that ''childhood cancers are rare and excess risks are not likely to be detectable in the small number of children being

followed in epidemiologic studies.'' [STAC 2012] The STAC defines childhood cancers as all cancers diagnosed in persons less than 20 years old. The most common types of childhood cancers are hematopoietic, bone, kidney, sarcomas, eye, and brain cancers. Childhood cancers involving the blood and lymphoid tissues, kidney, sarcomas, and eye cancers have already been added to the List and are described elsewhere in Section III.D.5. The Administrator proposes to add childhood cancers—any type of cancer occurring in a person less than 20 years of age—to the List of WTC-Related Health Conditions based on Method 4. The Administrator will continue to monitor cohort studies that address site-specific cancer in 9/11-exposed populations of children less than 20 years of age.

Rare Cancers. (Method 4) The STAC recommended that rare cancers be included in the List of WTC-Related Health Conditions but noted that there is no uniform definition a rare cancer. The STAC also recommended that ''definitions be based on age-specific incidence rates by gender, decade of age, site and histology. Site/histology combinations to be considered as unique cancers should be determined a priori in consultation with appropriate experts.'' The Rare Diseases Act of 2002 defines a rare disease as one affecting ''small patient populations, typically populations smaller than 200,000 individuals in the United States.'' [12] The National Cancer Institute notes that ''there are some anatomic sites in which cancer rarely occurs.'' [Young, *et al.* 2007] For a limited population like that of the WTC Health Program, cancers that are considered rare based on occurrence rates in the U.S. population will be rare cancers for the 9/11-exposed populations. The Administrator proposes to add rare cancers—any type of cancer affecting populations smaller than 200,000 individuals in the United States, *i.e.,* occurring at an incidence rate less than 0.08 percent of the U.S. population—to the List of WTC-Related Health Conditions based on Method 4 and will consult with appropriate experts as recommended by the STAC. The Administrator also seeks information about rare cancers from the public.

The Administrator will continue to review and evaluate the scientific evidence available to determine whether these types and any other types of cancer should be included in the List. These reviews will be published in the periodic reviews of cancer. Petitions to add types of cancer may also be filed with the Administrator. In the event additional studies are published prior to the issuance of a final rule regarding the subject of this notice of proposed rulemaking, the Administrator will consider those studies as appropriate in the process of developing a final rule.

6. Certification and Treatment of WTC-Related Health Conditions Including Types of Cancer

In order for an individual enrolled as a WTC responder or survivor to obtain coverage for treatment of any health condition on the List of WTC-Related Health Conditions, including any of type of cancer added to the List, a two-step process must be satisfied. First, a physician at a Clinical Center of Excellence or in the nationwide provider network must make a determination that the particular type of cancer for which the responder or survivor seeks treatment coverage is both: (1) On the List of WTC-Related Health Conditions; and that (2) exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the type of cancer for which the responder or survivor seeks treatment coverage.[13] Pursuant to 42 CFR 88.12(a), the physician's determination must be based on: (1) An assessment of the individual's exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, attacks; and (2) the type of symptoms reported and the temporal sequence of those symptoms. As a second statutory requirement, all physician determinations are reviewed by the Administrator and, if found to satisfactorily meet the exposure assessment and symptom requirements, are certified for treatment coverage. Thus, inclusion of a condition on the List of WTC-Related Health Conditions, in and of itself, does *not* guarantee that a particular individual's condition will be certified as eligible for treatment. Responders and survivors denied certification have a right to appeal the denial of certification.

Early detection of cancer in 9/11-exposed populations—either as part of medical monitoring of enrolled WTC responders and survivors or part of ongoing research—is an important adjunct to the WTC Health Program. Screening for the cancers proposed by this rulemaking follow U.S. Preventive Services Task Force (USPSTF) Guidelines. There are two types of cancer proposed to be added to the List of WTC-Related Health Conditions for which the USPSTF has a current recommendation for screening. The USPSTF recommends screening for colorectal cancer (cancer of the colon and rectum) using fecal occult blood testing, sigmoidoscopy, or colonoscopy, in adults, beginning at age 50 years and continuing until age 75 years. [USPSTF 2008] The Task Force also recommends breast cancer screening using biennial mammography for women beginning at age 40.[14]

7. Endnotes

American Cancer Society [2012] Cancer Facts & Figures 2012. American Cancer Society, Atlanta, GA. Available at *http://www.cancer.org/Research/CancerFactsFigures/CancerFactsFigures/cancer-facts-figures-2012*.

Cogliano VJ, Baan R, Straif K, Grosse Y, Lauby-Secretan B, El Ghissassi F, Bouvard B, Benbrahim-Tallaa L, Guha N, Freeman C, Galichet L, Wild CP [2011]. Preventable Exposures Associated with Human Cancers. J Natl Cancer Inst 103:1827–1839.

COPC (Contaminants of Potential Concern) Committee [2003]. World Trade Center Indoor Environment Assessment: Selecting Contaminants of Potential Concern and Setting Health-Based Benchmarks. *http://www.epa.gov/wtc/reports/contaminants_of_concern_benchmark_study.pdf*. Accessed April 18, 2011.

Bradford Hill A [1965]. The Environment and Disease: Association or Causation? Proceedings of the Royal Society of Medicine (May) 58:295–300.

Howard J [2011]. October 5, 2011 Letter from John Howard, MD, Director, National Institute for Occupational Safety and Health (NIOSH) to the WTC Health Program Scientific/Technical Advisory Committee. This letter is included in the docket for this rulemaking. See *http:www.regulations.gov* and *http://www.cdc.gov/niosh/docket/archive/docket257.html*.

IARC (International Agency for Research on Cancer) [1985]. IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans: Vol. 35—Polynuclear Aromatic Compounds, Part 4, Bitumens, Coal-Tars and Derived Products, Shale-Oils and Soots. IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol35/volume35.pdf*. Accessed April 9, 2012.

IARC (International Agency for Research on Cancer) [2006]. IARC Monographs on the Evaluation of the Carcinogenic Risk of

[12] Rare Diseases Act of 2002 (Pub. L. 107–208), codified in Title IV, § 404f(c) of the PHS Act (42 U.S.C. 283h(c)).

[13] See § 3312(a)(1), Title XXXIII of the PHS Act; 42 U.S.C. 300mm–22(a)(1).

[14] The Department of Health and Human Services, in implementing the Affordable Care Act under the standard it sets out in revised § 2713(a)(5) of the Public Health Service Act, utilizes the 2002 recommendation on breast cancer screening of the USPSTF. Available at *http://www.uspreventiveservicestaskforce.org/uspstf/uspsbrca2002.htm*. Accessed June 7, 2012.

Chemicals to Humans: Vol. 88—Formaldehyde, 2–Butoxyethanol and 1-tert-Butoxypropan-2-ol. IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol88/index.php*. Accessed April 9, 2012.

IARC (International Agency for Research on Cancer) [2008]. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 97—1,3–Butadiene, Ethylene Oxide and Vinyl Halides (Vinyl Fluoride, Vinyl Chloride and Vinyl Bromide). IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol97/index.php*. Accessed April 9, 2012.

IARC (International Agency for Research on Cancer) [2012a]. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 100—A Review of Human Carcinogens. Part C: Arsenic, Metals, Fibres, and Dusts. IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol100C/index.php*. Accessed April 9, 2012.

IARC (International Agency for Research on Cancer) [2012b]. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 100—A Review of Human Carcinogens. Part D: Radiation. IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol100D/index.php*. Accessed April 9, 2012.

IARC (International Agency for Research on Cancer) [2012c]. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Vol. 100—A Review of Human Carcinogens. Part F: Chemical Agents and Related Occupations. IARC, Lyon, France. *http://monographs.iarc.fr/ENG/Monographs/vol100F/index.php*. Accessed April 9, 2012.

Lagergren J, Bergstrom R, Lingren A, Nyren O [1999]. Symptomatic Gastroesophageal Reflux as a Risk Factor for Esophageal Adenocarcinoma. New Engl J Med 340(11): 825–831.

Lioy PJ, Weisel CP, Millette JR, Eisenreich S, Vallero D, Offenberg J, Buckley B, Turpin B, Zhong M, Cohen MD, Prophete C, Yang I, Stiles R, Chee G, *et al.* [2002]. Characterization of the Dust/Smoke Aerosol that Settled East of the World Trade Center (WTC) in Lower Manhattan after the Collapse of the WTC 11 September 2001. Environ Health Perspect 110(7):703–714.

Lorber M, Gibb H, Grant L, Pinto J, Pleil J, Cleverly D [2007]. Assessment of Inhalation Exposures and Potential Health Risks to the General Population that Resulted from the Collapse of the World Trade Center Towers. Risk Anal 27(5):1203–21.

Maloney CB, Nadler J, King PT, Schumer CE, Gillibrand KE, Rangel CB, Velazquez NM, Grimm MG, Clarke YD. [2011]. Letter from Congress to John Howard, MD, Director, National Institute for Occupational Safety and Health (NIOSH). WTC Health Program Petition 001. Petition 001 is included in the docket for this rulemaking. See *http:www.regulations.gov* and *http://www.cdc.gov/niosh/docket/archive/docket257.html*.

National Toxicology Program (NTP), Department of Health and Human Services. [2012] Request for Public Comment on Nominations and Call for Additional Nominations to the Report on Carcinogens. 77 Fed. Reg. 2728 (January 12, 2012).

NIOSH [2011]. First Periodic Review of Scientific and Medical Evidence Related to Cancer for the World Trade Center Health Program. NIOSH Publication No. 2011–197. *http://www.cdc.gov/niosh/docs/2011–197/pdfs/2011–197.pdf/*. Accessed April 18, 2012.

NTP (National Toxicology Program) [2011]. 12th Report on Carcinogens. National Toxicology Program, Public Health Service, U.S. Department of Health and Human Services, Research Triangle Park, NC. *http://ntp-server.niehs.nih.gov/?objectid=72016262–BDB7–CEBA–FA60E922B18C2540*. Accessed May 10, 2012.

Parekh P, Semkow T, Husain L, Wozniak G [2002]. Tritium in the World Trade Center September 11th, 2001 Terrorist Attack: Its possible sources and fate. Abstr Pap Am Chem Soc 223:026–NUCL.

Pleil JD, Vette AF, Johnson BA, Rappaport SM [2004]. Air Levels of Carcinogenic Polycyclic Aromatic Hydrocarbons After the World Trade Center Disaster. Proc Natl Acad Sci USA. 101:11685–11688.

Rare Diseases Act of 2002 (Pub. L. 107–208), codified in Title IV, § 404f(c) of the PHS Act (42 U.S.C. § 283h(c)).

Young JL, Ward KC, Ries LAG, Chapter 30 in Ries LAG, Young JL, Keel GE, Eisner MP, Lin YD, Horner M–J (editors). SEER Survival Monograph: Cancer Survival Among Adults: U.S. Seer Program, 1988–2001, Patient and Tumor Characteristics. National Cancer Institute, SEER Program, NIH Pub. No. 07–6215, Bethesda, MD, 2007.

STAC (World Trade Center Health Program Scientific/Technical Advisory Committee) [2012]. Letter from Elizabeth Ward, Chair to John Howard, MD, Administrator. This letter is included in the docket for this rulemaking. See *http:www.regulations.gov* and *http://www.cdc.gov/niosh/docket/archive/docket257.html*.

Straif K, Baan R, Grosse Y, Secretan B, El Ghissassi F, Bouvard V, Altieri, Benbrahim-Tallaa L, Cogliano V [2007]. Carcinogenicity of Shift-Work, Painting, and Fire-Fighting. Lancet Oncol. Dec 8:1065–1066.

United States Preventive Services Task Force (USPSTF) [2008]. Screening for Colorectal Cancer. Available at *http://www.uspreventiveservicestaskforce.org/uspstf/uspscolo.htm*. Accessed May 28, 2012.

Wallingford KM, Snyder EM [2001]. Occupational Exposures During the World Trade Center Disaster Response. Toxicol Ind Health 17:247–253.

WHO (World Health Organization) [1978]. International Classification of Diseases, Ninth Revision. Geneva: World Health Organization.

WHO (World Health Organization) [1997]. International Classification of Diseases, Tenth Revision. Geneva: World Health Organization.

Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters After the 9/11 Attacks: An Observational Cohort Study. Lancet. 378(9794):898–905.

E. Effects of Rulemaking on Federal Agencies

Title II of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347) reactivated the September 11, 2001 Victim Compensation Fund (VCF). Administered by the U.S. Department of Justice (DOJ), the VCF provides compensation to any individual or representative of a deceased individual who was physically injured or killed as a result of the September 11, 2001, terrorist attacks or during the debris removal. Eligibility criteria for compensation by the VCF include a list of presumptively covered health conditions, which are physical injuries determined to be WTC-related health conditions by the WTC Health Program. Pursuant to DOJ regulations, the VCF Special Master is required to update the list of presumptively covered conditions when the List of WTC-Related Health Conditions in 42 CFR 88.1 is updated.[15]

IV. Summary of Proposed Rule

The proposed rule would amend the definition of ''List of WTC-Related Health Conditions'' in 42 CFR 88.1, to include the types of cancer discussed above in section II.D. Table 1 in the regulatory text describes types of cancers included in 42 CFR 88.1 and identifies each by ICD–10 code. Because the ICD–10 modification will not be used by the U.S. healthcare system until October 1, 2014, the corresponding ICD–9 codes for the included cancer types are also provided in Table 1.

The effect of this amendment would be that, for the types of cancers added, an enrolled WTC responder, certified-eligible survivor, or screening-eligible survivor may seek certification of a physician's determination that the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing the individual's cancer. If the condition is certified by the Administrator, the individual may seek treatment and monitoring of this condition under the WTC Health Program.

[15] 28 CFR 104.21.

V. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule has been determined to be a ''significant regulatory action,'' under § 3(f) of E.O. 12866. The addition of specific types of cancer proposed to be added to the List of WTC-Related Health Conditions by this rule is estimated to cost the WTC Health Program between $2,124,624 [16] and $5,019,182 [17] (see Table 9) for the first year (2013). Because a portion of responders and survivors are also covered by private health insurance, employer-provided insurance (such as FDNY), or Medicare or Medicaid, only a portion of the costs, those costs representing the uninsured, are societal costs. All other costs to the WTC Health Program are transfers. After the implementation of provisions of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on January 1, 2014, all of the costs to the WTC Health Program will be transfers. Transfers from FY 2013 through FY 2016 are expected to be between $12,458,535 and $33,308,060 per annum. Accordingly, this rule has been reviewed by the Office of Management and Budget. The proposed rule would not interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Cost Estimates

The WTC Health Program has, to date, enrolled approximately 55,000 New York City responders and approximately 5,000 survivors, or approximately 60,000 individuals in total. Of that total population, approximately 59,000 individuals were participants in previous WTC medical programs and were 'grandfathered' into the WTC Health Program established by Title XXXIII. These grandfathered members were enrolled without having to complete a new member application when the WTC Health Program started on July 1, 2011 and are referred to in the WTC Health Program regulations in 42 CFR Part 88 as ''currently identified responders'' and ''currently identified survivors.'' In addition to those currently identified WTC responders and survivors already enrolled, the PHS Act [18] sets a numerical limitation on the number of eligible members who can enroll in the WTC Health Program beginning July 1, 2011 at 25,000 new WTC responders and 25,000 new certified-eligible WTC survivors [19] (*i.e.,* the statute restricts new enrollment). Since July 1, 2011, a total of approximately 1,000 new WTC responders and new WTC survivors have enrolled in the WTC Health Program, resulting in only a minor impact on the statutory enrollment limits for new members. For the purpose of calculating a baseline estimate of cancer prevalence only, HHS assumed that this gradual rate of enrollment would continue, and that the currently enrolled population numbers would remain around 55,000 WTC responders and 5,000 WTC survivors. The estimate is further based on the average U.S. cancer prevalence rate, and 7 percent discount rate.

As it is not possible to identify an upper bound estimate, HHS has modeled another possible point on the continuum. For the purpose of calculating the impact of an increased rate of cancer on the WTC Health Program, this analysis assumes that the entire statutory cap for new WTC responders (25,000) and WTC survivors (25,000) will be filled. Accordingly, this estimate is based on a population of 80,000 responders (55,000 currently identified + 25,000 new) and 30,000 survivors (5,000 currently identified + 25,000 new). The upper cost estimate also assumes an overall increase in population cancer rates of 21 percent due to 9/11 exposure,[20] and costs were discounted at 3 percent. The choice of a 21 percent increase in the risk of cancer of the rate found in the un-exposed population is based on findings presented in the only published epidemiologic study of September 11, 2001 exposed populations to date. [Zeig-Owens, *et al.* 2011] Given the challenges associated with interpreting the Zeig-Owens findings,[21] we simply characterize 21 percent as a possible outcome rather than asserting the probability that 21 percent is a ''likely'' outcome. HHS invites public comment on alternative approaches to estimating the costs and benefits described in this rulemaking, considering for example cancer latency.

HHS acknowledges that some cancer cases are not likely to have been caused by exposure to 9/11 agents. The certification of individual cancer diagnoses will be conducted on a case-by-case basis, after consideration of the individual responder's or survivor's exposure to 9/11 agents and the temporal sequence of symptoms. However, for the purpose of this analysis, HHS has estimated that all diagnosed cancers proposed to be added to the List will be certified for treatment by the WTC Health Program. Finally, because there are no existing data on cancer rates related to exposure to 9/11 agents at either the Pentagon or in Shanksville, Pennsylvania, HHS has used only data from studies of individuals who were responders or survivors in the New York City disaster area. HHS invites comment on this approach.

Costs of Cancer Treatment

HHS estimated the treatment costs associated with covering the select types of cancer proposed in this rulemaking using the methods described below. In the following discussion, the category of ''Head and Neck'' includes all cancer cases from nasal cavity, nasopharynx, accessory sinuses, and larynx. The survival rates for all cancers in the ''Head and Neck'' category were approximated using survival rates for cancer of the larynx. The category described as ''Lung'' in this discussion includes cancer of the trachea, bronchus and lung, heart, mediastinum and pleura, and other sites in the respiratory system and intrathoracic organs. Treatment costs for all respiratory system cancers including ''mesothelioma'' were approximated by treatment costs for lung cancer. Costs of treatment for the ''digestive system'' were approximated using the costs of gastric cancer; costs for cancer of the ''skin'' were approximated using costs for melanoma of the skin; ''female reproductive organs'' were

[16] Based on a population of 60,000 at the U.S. cancer rate and discounted at 7 percent.

[17] Based on a population of 110,000 at 21 percent above the U.S. cancer rate and discounted at 3 percent.

[18] PHS Act, Title XXXIII § 3311(a)(4)(A) and § 3321(a)(3)(A).

[19] *See* 42 CFR 88.8(b) for explanation of a certified-eligible survivor.

[20] Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters After the 9/11 Attacks: An Observational Cohort Study. Lancet. 378(9794):898–905.

[21] As Zeig-Owens et al point out, the time interval since 9/11 is short for cancer outcomes, the recorded excess of cancers is not limited to specific sites, and the biological plausibility of chronic inflammation as a possible mediator between WTC-exposure and cancer means that the outcomes remain speculative.

approximated using costs for cancer of the ovary; ''urinary system'' cancer was approximated by costs of urinary bladder cancer; and ''blood and lymphoid tissue'' cancers were approximated using leukemia and lymphoma. The costs for cancer identified with the ''endocrine system,'' the ''soft tissue sarcomas,'' and ''eye/orbit'' were approximated using costs for treatment of ''other'' tumors. The ''other'' category includes treatments costs from: salivary gland, nasopharynx, tonsil, small intestine, anus, intrahepatic bile duct, gallbladder, other biliary, retroperitoneum, peritoneum, other digestive organs, nose, nasal cavity, middle ear, larynx, pleura, trachea, mediastinum and other respiratory organs, bones and joints, soft tissue, other nonepithelial skin, vagina, vulva, other female genital organs, penis, other male genital organs, ureter, other urinary organs, eye and orbit, thyroid, other endocrine multiple myeloma, and miscellaneous.

The WTC Health Program obtained data for the cost of providing medical treatment for each cancer type. The costs of treatment for each type of cancer are described in Table 1. The costs of treatment are divided into three phases: the costs for the first year following diagnosis, the costs of intervening years or continuing treatment after the first year, and the costs of treatment for the last year of life. The first year costs of cancer treatment are higher due to the initial need for aggressive medical (*e.g.* radiation, chemotherapy) and surgical care. The costs during last year of life are often dominated by increased hospitalization costs.[22] Therefore, we used three different treatment phase costs to estimate the costs of treatment to be able to best estimate costs in conjunction with expected incidence and long-term survival for each type of cancer.

TABLE 1—AVERAGE COSTS OF TREATMENT, MALE AND FEMALE

[2011 $]

Category	Initial (12 month)	Continuing (annual)	Last year of life (12 mos.)
Head and Neck	$28,265	$3,136	$47,730
Digestive System	59,551	2,544	68,242
Respiratory System	45,493	5,026	65,592
Mesothelium	45,493	5,026	65,592
Skin	3,938	1,040	25,351
Female Reproductive Organs	66,527	5,023	64,728
Urinary System	16,926	3,630	40,905
Blood & Lymphoid Tissue	33,312	5,782	69,070
Endocrine System	30,859	3,791	58,623
Soft Tissue Sarcomas	30,859	3,791	58,623
Melanoma	3,938	1,040	25,351
Breast	15,136	1,550	37,684
Eye/Orbit	30,859	3,791	58,623

Source: Yabroff KR, Lamont EB, Mariotto A, Warren JL, Topor M, Meekins A, Brown ML [2008]. Cost of Care for Elderly Cancer Patients in the United States. Journal: J Natl Cancer Inst 100(9):630–41.

These cost figures were based on a study of elderly cancer patients from Surveillance, Epidemiology, and End Results (SEER) program maintained by the National Cancer Institute, using Medicare files.[23] The average costs of treatment described above are given in 2011 prices adjusted using the Medical Consumer Price Index for all urban consumers.[24]

Incident Cases of Cancer

HHS estimated the expected number of cases of cancer that would be observed in a cohort of responders and survivors followed for cancer incidence after September 11, 2001 using U.S. population cancer rates for the cancer types proposed to be added to the List of WTC-Related Health Conditions under this rulemaking. Demographic characteristics of the cohort were assigned since the actual data are not available for individuals in the responder and survivor populations who have not yet enrolled in the WTC Health Program. Gender and age (at the time of exposure) distributions for responders and survivors were assumed to be the same as current enrollees in the WTC Health Program. According to WTC Health Program data, males comprise 88 percent of the current responder enrollees and 50 percent of survivor enrollees. The age distribution for current enrollees by gender and responder/survivor status is presented in Table 2.

TABLE 2—PERCENTILES OF CURRENT AGE (ON APRIL 11, 2012) FOR CURRENT ENROLLEES IN THE WTC HEALTH PROGRAM BY GENDER AND RESPONDER/SURVIVOR STATUS

Age percentile (years)	Group								
	Min	1	10	30	50	70	90	99	Max
Male responders	28	32	39	44	49	54	62	74	92
Female responders	28	30	38	44	49	54	62	76	92

[22] Yabroff KR, Lamont EB, Mariotto A, Warren JL, Topor M, Meekins A, Brown ML [2008]. Cost of Care for Elderly Cancer Patients in the United States. Journal: J Natl Cancer Inst 100(9):630–41.

[23] Surveillance, Epidemiology, and End Results (SEER) Program (*www.seer.cancer.gov*) Research Data (1973–2006), National Cancer Institute, DCCPS, Surveillance Research Program, Surveillance Systems Branch, released April 2009, based on the November 2008 submission.

[24] Bureau of Labor Statistics. Consumer Price Index *https://research.stlouisfed.org/fred2/series/CPIMEDSL/downloaddata?cid=32419.* Accessed April, 23, 2012.

TABLE 2—PERCENTILES OF CURRENT AGE (ON APRIL 11, 2012) FOR CURRENT ENROLLEES IN THE WTC HEALTH PROGRAM BY GENDER AND RESPONDER/SURVIVOR STATUS—Continued

Age percentile (years)	Group								
	Min	1	10	30	50	70	90	99	Max
Male survivors	12	23	35	46	52	58	67	81	99
Female survivors	12	21	38	49	54	60	68	84	95

HHS assumed race and ethnic origin distributions for responders and survivors according to distributions in the WTC Health Registry cohort:[25] 57 percent non-Hispanic white, 15 percent non-Hispanic black, 21 percent Hispanic, and 8 percent other race/ethnicity for responders and 50 percent non-Hispanic white, 17 percent non-Hispanic black, 15 percent Hispanic, and 18 percent other race/ethnicity for survivors. Follow-up for cancer morbidity for each person began on January 1, 2002 or age 15 years, whichever was later. Age 15 was considered because the cancer incidence rate file did not include rates for persons less than 15 years of age. Follow-up ended on December 31, 2016 or the estimated last year of life, whichever was earlier. The estimated last year of life was used since not all persons would be expected to remain alive at the end of 2016. The estimated last year of life was based on U.S. gender, race, age, and year-specific death rates from CDC Wonder (since rates are currently available through 2008, the rate from 2008 was applied to 2009 and later).[26] A life-table analysis program, LTAS.NET, was used to estimate the expected number of incident cancers for cancer types proposed to be added.[27] HHS calculated cancer incidence rates using data through 2006 from the Surveillance Epidemiology and End Results (SEER) Program, and estimated rates for 2007–2016.[28] The Program applied the resulting gender, race, age, and year-specific cancer incidence rates to the estimated person-years at risk to estimate the expected number of cancer cases for each cancer type starting from year 2002, the first full year following the September 11, 2001, terrorist attacks, to 2016, the last year for which this Program is authorized.

Prevalence of Cancer

To determine the potential number of persons in the responder and survivor populations with cancer, HHS used the number of incident cases described above for each year starting with 2002, and estimated the prevalence of cancer using survival rate statistics for each incident cancer group through 2016.[29]

Using the incident cases and survival rate statistics for each cancer type, HHS has estimated the prevalence (number of persons living with cancer) of cases during the 15 year period (2002–2016) since September 11, 2001. The resulting table provides for each year from 2002 through 2016, the number of new cases occurring in that year (incidence), the number of individuals who died from their cancer in that year, and the number of persons surviving up to 15 years beyond their first diagnosis with one table for each type of cancer (prevalence).[30] For example, in 2002 there are 23.47 projected new lung cancer cases, which would be listed as incident cases for that year. The survival rate for lung cancer in the first year of diagnosis is 40.6 percent.[31] Therefore the number of deceased persons in 2002 would be $18.78 \times (1–0.406) = 11.15$. For the lung cancer prevalence table, in year 2003, the number of incident cases would be 20.88 cases. In addition to 20.88 newly diagnosed cases in 2003, there would be the one-year survivors from 2002 which would be 18.78—11.15 (or $18.78 \times 0.406) = 7.62$ cases. This computation process can be repeated for each year through year 2016. A portion of the lung cancer prevalence table is provided in Table 3 as an example.

Prevalence tables were created for each type of covered cancer and the results are summarized in Tables 5, and 7. This analysis considers cancers diagnosed in 2002 through 2016.

TABLE 3—EXAMPLE FROM PREVALENCE TABLE FOR LUNG CANCER

[Based on 80,000 responders]

Year	Years since exposure to 9/11 agents			Years covered by WTC Health Program			
	2002	2003	2012	2013	2014	2015	2016
1 (incidence)	18.78	20.88	46.53	51.22	56.10	60.69	66.03
2	.....	7.62	17.00	18.89	20.79	22.78	24.64
3	.....	.....	9.25	10.18	11.30	12.45	13.63
4	.....	.....	6.42	7.08	7.79	8.66	9.53
5	.....	.....	4.95	5.46	6.02	6.62	7.35
6	.....	.....	4.01	4.45	4.90	5.40	5.94
7	.....	.....	3.28	3.67	4.07	4.49	4.94
8	.....	.....	2.71	3.03	3.38	3.76	4.14
9	.....	.....	2.55	2.49	2.78	3.10	3.45

[25] Jordan HT, Brackbill RM, Cone JE, Debchoudhury I, Farfel MR, Greene CM, Hadler JL, Kennedy J, Li J, Liff J, Stayner L, Stellman SD. Mortality Among Survivors of the Sept 11, 2001, Word Trade Center Disaster: Results from the World Trade Center Health Registry Cohort. Lancet 2011;378:879–887.

[26] Centers for Disease Control and Prevention, National Center for Health Statistics. Compressed Mortality File 1999–2008. CDC WONDER Online Database, compiled from Compressed Mortality File 1999–2008 Series 20 No. 2N, 2011. Accessed at *http://wonder.cdc.gov/cmf-icd10.html* 15 February 2012.

[27] Schubauer-Berigan MK, Hein MJ, Raudabaugh WM, Ruder AM, Silver SR, Spaeth S, Steenland K, Petersen MR, and Waters KM [2011]. Update of the NIOSH Life Table Analysis System: A Person-Years Analysis program for the Windows Computing Environment. American Journal of Industrial Medicine 54:915–924.

[28] National Cancer Institute, Surveillance Epidemiology and End Results (SEER). *http://seer.cancer.gov/*. Accessed May 27, 2012.

[29] National Cancer Institute, Surveillance Epidemiology and End Results (SEER). *http://seer.cancer.gov/*. Accessed May 27, 2012.

[30] The 15-year survival limit is imposed based on the analytic time horizon.

[31] National Cancer Institute, Surveillance Epidemiology and End Results (SEER). *http://seer.cancer.gov/*. Accessed May 27, 2012.

TABLE 3—EXAMPLE FROM PREVALENCE TABLE FOR LUNG CANCER—Continued

[Based on 80,000 responders]

Year	Years since exposure to 9/11 agents			Years covered by WTC Health Program			
	2002	2003	2012	2013	2014	2015	2016
10			2.15	2.38	2.33	2.60	2.90
11			1.78	1.98	2.20	2.14	2.40
12				1.66	1.84	2.04	1.99
13					1.52	1.69	1.88
14						1.42	1.58
15							1.35
Live cases from previous years			54.11	61.26	68.94	77.16	85.74
Prevalence	18.78	28.50	100.64	112.48	125.03	137.85	151.78
Last year of life	11.15	15.46	39.38	43.54	47.87	52.10	56.79

Cost Computation

To compute the costs for each type of cancer, HHS assumes that all of the individuals who are diagnosed with a cancer type will be certified by the WTC Health Program for treatment and monitoring services. The treatment costs for the first year of treatment (Table 1, year adjusted) were applied to the predicted newly incident (Year 1) cases for each year. Likewise, the costs of treatment for the last year of life were applied in each year to the number of people predicted to die from their cancer in that year. The costs of continuing treatment from Table 1 were applied to the number of prevalent cases who had survived their cancers beyond their year of diagnosis, for each year of survival (Year 2–15).

Using this procedure, a cost table is constructed for each year covered by the WTC Health Program. Table 4 provides an illustrative example for lung cancer. The row for Year 1 is the cost of incident cases for that year. Rows 2–15 show the cost from continuing care for persons surviving n-years beyond the year of diagnosis. Finally, the cost of last year of life treatment is computed by multiplying the cost for last year of life from Table 1 by the number of persons dying in that year from that type of cancer.

TABLE 4—COST PER 80,000 RESPONDERS FOR LUNG CANCER, 2011$

Year	Years covered by the WTC Health Program			
	2013	2014	2015	2016
1	$914,986	$1,002,168	$1,084,205	$1,179,677
2	91,825	101,077	110,708	119,770
3	49,469	54,959	60,497	66,261
4	34,408	37,865	42,068	46,306
5	26,537	29,228	32,165	35,735
6	21,624	23,850	26,268	28,908
7	17,840	19,797	21,834	24,048
8	14,727	16,468	18,274	20,155
9	12,080	13,500	15,096	16,751
10	11,608	11,311	12,641	14,135
11	9,642	10,706	10,433	11,659
12	8,032	8,932	9,917	9,664
13		7,393	8,221	9,128
14			6,936	7,714
15				6,571
Prevalent care	1,212,778	1,337,254	1,459,263	1,589,911
Last year of life care	2,762,609	3,037,261	3,305,416	3,603,198
Total	3,975,387	4,374,515	4,764,679	5,193,109

The sum of the annual costs for the years 2013 through 2016 represents the estimated treatment costs to the WTC Health Program for coverage of lung cancer for 80,000 responders. The cost projections in Table 4 are based on an assumed responder population size of 80,000.

The same process described above was applied to the survivor cohort. Based on the incidence rate expected from the survivor cohort, prevalence tables were constructed for each covered type of cancer.

The estimated treatment costs for responders and survivors were re-computed under two assumptions: (1) Assuming the rate of cancer in the WTC Health Program is equal to the rate of cancer observed in the general population; and (2) assuming the rate of cancer exceeds the general population rate by 21 percent due to their exposures in the New York City disaster area.[32] HHS is not aware of any other estimates of excess cancer rates in the 9/11-exposed population in the peer-reviewed literature.

[32] Zeig-Owens R, Webber MP, Hall CB, Schwartz T, Jaber N, Weakley J, Rohan TE, Cohen HW, Derman O, Aldrich TK, Kelly K, Prezant DJ [2011]. Early Assessment of Cancer Outcomes in New York City Firefighters After the 9/11 Attacks: An Observational Cohort Study. Lancet. 378(9794):898–905. Limitations of the Zeig-Owens study include: limited information on specific exposures experienced by firefighters; short time for follow-up of cancer outcomes; speculation about the biological plausibility of chronic inflammation as a possible mediator between WTC-exposure and cancer outcomes; and potential unmeasured confounders.

A summary of the estimated prevalence at the U.S. population average for the assumed population of 55,000 responders and 5,000 survivors is provided in Table 5. A summary of the estimated treatment costs to the WTC Health Program is provided in Table 6.

A summary of the estimated prevalence using cancer rates 21 percent over the U.S. population average for the increased rate of 80,000 responders and 30,000 survivors is given in Table 7. A summary of the estimated treatment costs to the WTC Health Program is provided in Table 8.

TABLE 5—ESTIMATED PREVALENCE BY YEAR AND CANCER TYPE BASED ON 55,000 AND 5,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE

Cancer type	Prevalence (incident + live cases)			
	2013	2014	2015	2016
Based on 55,000 responder population				
Head & Neck	89.41	99.20	109.35	119.83
Digestive System	136.54	150.69	165.19	180.38
Respiratory System	77.91	86.61	95.50	105.16
Mesothelioma	1.02	1.12	1.23	1.35
Skin	11.04	12.22	13.43	14.71
Female Reproductive Organs	5.14	5.64	6.14	6.65
Urinary System	108.78	121.39	134.69	148.90
Blood & Lymphoid Tissue	119.72	130.72	141.97	153.71
Endocrine System	53.50	58.75	64.05	69.40
Soft Tissue Sarcomas	11.02	11.86	12.67	13.47
Melanoma	134.33	149.37	165.05	181.42
Breast	102.30	113.46	124.91	136.66
Eye/Orbit	3.89	4.29	4.71	5.14
Total	854.59	945.32	1,038.88	1,136.78
Based on 5,000 survivor population				
Head & Neck	7.78	7.78	7.78	7.78
Digestive System	15.48	15.48	15.48	15.48
Respiratory System	10.28	10.28	10.28	10.28
Mesothelioma	0.10	0.10	0.10	0.10
Skin	1.13	1.13	1.13	1.13
Female Reproductive Organs	2.58	2.58	2.58	2.58
Urinary System	10.47	10.47	10.47	10.47
Blood & Lymphoid Tissue	12.48	12.48	12.48	12.48
Endocrine System	4.29	4.29	4.29	4.29
Soft Tissue Sarcomas	0.96	0.96	0.96	0.96
Melanoma	12.21	13.58	15.00	16.49
Breast	9.30	10.31	11.36	12.42
Eye/Orbit	0.35	0.39	0.43	0.47
Total	87.41	89.83	92.33	94.93

TABLE 6—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 55,000 AND 5,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE

[2011 $]

Cancer type	2013	2014	2015	2016	2013–2016
Based on 55,000 responder population					
Head & Neck	$925,673	$1,007,744	$1,089,966	$1,164,226	$4,187,609
Digestive System	4,181,699	4,525,672	4,856,402	5,191,940	18,755,713
Respiratory System	2,832,704	3,117,317	3,395,504	3,701,062	13,046,587
Mesothelioma	49,088	54,012	58,869	64,417	226,387
Skin	18,078	20,075	21,834	23,072	83,059
Female Reproductive Organs	121,957	130,292	137,643	144,194	534,086
Urinary System	1,278,299	1,398,867	1,521,993	1,642,997	5,842,157
Blood & Lymphoid Tissue	2,224,916	2,391,015	2,551,304	2,697,317	9,864,552
Endocrine System	362,248	385,533	408,544	419,353	1,575,678
Soft Tissue Sarcomas	148,358	158,024	167,208	175,680	649,270
Melanoma	229,538	249,805	270,744	284,528	1,034,615
Breast	420,290	453,613	485,454	510,289	1,869,646
Eye/Orbit	36,018	39,242	42,470	45,255	162,985
Total	12,828,867	13,931,212	15,007,935	16,064,330	57,832,344

TABLE 6—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 55,000 AND 5,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING CANCER RATES AT U.S. POPULATION AVERAGE—Continued

[2011 $]

Cancer type	2013	2014	2015	2016	2013–2016
Based on 5,000 survivor population					
Head & Neck	77,325	82,580	87,736	92,044	339,685
Digestive System	471,917	502,369	531,352	559,893	2,065,532
Respiratory System	362,274	389,675	416,326	444,551	1,612,827
Mesothelioma	4,625	4,974	5,291	5,659	20,549
Skin	1,843	2,034	2,196	2,300	8,372
Female Reproductive Organs	58,454	61,173	63,740	65,729	249,097
Urinary System	119,698	128,808	137,954	146,467	532,927
Blood & Lymphoid Tissue	229,578	245,051	259,869	272,842	1,007,340
Endocrine System	60,893	62,633	63,909	64,476	251,910
Soft Tissue Sarcomas	14,017	14,748	15,415	15,960	60,140
Melanoma	30,943	32,541	33,962	35,142	132,588
Breast	230,196	241,382	251,227	258,804	981,609
Eye/Orbit	3,434	3,642	3,832	3,994	14,903
Total	1,665,197	1,771,611	1,872,809	1,967,862	7,277,478
Total					
Head & Neck	1,002,998	1,090,324	1,177,702	1,256,270	4,527,294
Digestive System	4,653,616	5,028,041	5,387,754	5,751,833	20,821,244
Respiratory System	3,194,979	3,506,992	3,811,830	4,145,613	14,659,414
Mesothelioma	53,713	58,987	64,160	70,076	246,936
Skin	19,921	22,109	24,030	25,371	91,431
Female Reproductive Organs	180,411	191,466	201,383	209,923	783,183
Urinary System	1,397,997	1,527,675	1,659,948	1,789,465	6,375,084
Blood & Lymphoid Tissue	2,454,494	2,636,067	2,811,173	2,970,159	10,871,892
Endocrine System	423,141	448,166	472,452	483,829	1,827,588
Soft Tissue Sarcomas	162,376	172,772	182,622	191,640	709,410
Melanoma	260,481	282,346	304,706	319,670	1,167,203
Breast	650,486	694,995	736,681	769,093	2,851,255
Eye/Orbit	39,452	42,885	46,302	49,250	177,888
Total	14,494,064	15,702,823	16,880,744	18,032,192	65,109,823

TABLE 7—ESTIMATED PREVALENCE BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE

Cancer type	Prevalence (incident + live cases)			
	2013	2014	2015	2016
Based on 80,000 responder population				
Head & Neck	157.36	174.59	192.45	210.91
Digestive System	240.31	265.21	290.74	317.47
Respiratory System	137.12	152.43	168.07	185.08
Mesothelioma	1.79	1.98	2.16	2.38
Skin	19.43	21.50	23.64	25.89
Female Reproductive Organs	9.05	9.92	10.81	11.71
Urinary System	191.45	213.66	237.05	262.06
Blood & Lymphoid Tissue	210.70	230.07	249.86	270.52
Endocrine System	94.16	103.40	112.73	122.15
Soft Tissue Sarcomas	19.40	20.87	22.29	23.70
Melanoma	236.42	262.90	290.50	319.30
Breast	180.05	199.69	219.84	240.52
Eye/Orbit	6.85	7.56	8.29	9.05
Total	1,504.09	1,663.77	1,828.43	2,000.74
Based on 30,000 survivor population				
Head & Neck	56.51	56.51	56.51	56.51
Digestive System	112.39	112.39	112.39	112.39
Respiratory System	74.61	74.61	74.61	74.61
Mesothelioma	0.70	0.70	0.70	0.70
Skin	8.21	8.21	8.21	8.21

TABLE 7—ESTIMATED PREVALENCE BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE—Continued

Cancer type	Prevalence (incident + live cases)			
	2013	2014	2015	2016
Female Reproductive Organs	18.73	18.73	18.73	18.73
Urinary System	76.04	76.04	76.04	76.04
Blood & Lymphoid Tissue	90.61	90.61	90.61	90.61
Endocrine System	31.11	31.11	31.11	31.11
Soft Tissue Sarcomas	6.94	6.94	6.94	6.94
Melanoma	88.66	98.59	108.94	119.74
Breast	67.52	74.88	82.44	90.20
Eye/Orbit	2.57	2.83	3.11	3.39
Total	634.60	652.16	670.34	689.18

TABLE 8—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE

[2011 $]

Cancer type	2013	2014	2015	2016	2013–2016
Based on 80,000 responder population					
Head & Neck	$1,656,113	$1,802,945	$1,950,049	$2,082,906	$7,492,013
Digestive System	7,481,440	8,096,839	8,688,544	9,288,852	33,555,675
Respiratory System	5,067,965	5,577,164	6,074,865	6,621,536	23,341,531
Mesothelioma	87,823	96,633	105,323	115,248	405,027
Skin	32,344	35,916	39,063	41,278	148,600
Female Reproductive Organs	218,192	233,104	246,256	257,976	955,528
Urinary System	2,286,993	2,502,701	2,722,984	2,939,472	10,452,150
Blood & Lymphoid Tissue	3,980,577	4,277,744	4,564,514	4,825,745	17,648,581
Endocrine System	648,095	689,754	730,922	750,261	2,819,031
Soft Tissue Sarcomas	265,426	282,719	299,150	314,308	1,161,603
Melanoma	410,664	446,924	484,385	509,047	1,851,021
Breast	751,937	811,554	868,522	912,953	3,344,966
Eye/Orbit	64,439	70,208	75,983	80,965	291,595
Total	22,952,009	24,924,205	26,850,560	28,740,547	44,654,652
Based on 30,000 survivor population					
Head & Neck	467,817	499,610	530,802	556,869	2,055,097
Digestive System	2,855,098	3,039,331	3,214,682	3,387,354	12,496,466
Respiratory System	2,191,761	2,357,535	2,518,774	2,689,533	9,757,602
Mesothelioma	27,979	30,096	32,010	34,239	124,324
Skin	11,149	12,304	13,285	13,912	50,650
Female Reproductive Organs	353,646	370,100	385,629	397,662	1,507,036
Urinary System	724,172	779,285	834,625	886,127	3,224,209
Blood & Lymphoid Tissue	1,388,944	1,482,561	1,572,207	1,650,695	6,094,408
Endocrine System	368,403	378,927	386,647	390,079	1,524,055
Soft Tissue Sarcomas	84,805	89,226	93,258	96,557	363,846
Melanoma	187,204	196,873	205,471	212,608	802,156
Breast	1,392,687	1,460,361	1,519,924	1,565,763	5,938,735
Eye/Orbit	20,776	22,037	23,182	24,166	90,160
Total	4,912,377	5,256,038	5,588,087	5,914,152	21,670,654
Total					
Head & Neck	2,123,930	2,302,555	2,480,851	2,639,775	9,547,110
Digestive System	10,336,538	11,136,171	11,903,227	12,676,206	46,052,141
Respiratory System	7,259,726	7,934,699	8,593,639	9,311,069	33,099,133
Mesothelioma	115,803	126,729	137,333	149,487	529,350
Skin	43,493	48,220	52,348	55,190	199,251
Female Reproductive Organs	571,838	603,204	631,884	655,638	2,462,564
Urinary System	3,011,165	3,281,986	3,557,609	3,825,599	13,676,358
Blood & Lymphoid Tissue	5,369,522	5,760,305	6,136,721	6,476,440	23,742,988
Endocrine System	1,016,497	1,068,681	1,117,568	1,140,340	4,343,086
Soft Tissue Sarcomas	350,231	371,945	392,408	410,864	1,525,449
Melanoma	597,868	643,798	689,857	721,654	2,653,177

TABLE 8—ESTIMATED TREATMENT COSTS BY YEAR AND CANCER TYPE BASED ON 80,000 AND 30,000 RESPONDER AND SURVIVOR POPULATION, RESPECTIVELY AND ASSUMING INCIDENCE OF CANCER IS 21% HIGHER THAN THE U.S. POPULATION DUE TO 9/11 EXPOSURE—Continued

[2011 $]

Cancer type	2013	2014	2015	2016	2013–2016
Breast	2,144,624	2,271,916	2,388,445	2,478,716	9,283,702
Eye/Orbit	85,215	92,244	99,165	105,132	381,756
Total	33,026,449	35,642,452	38,181,054	40,646,111	147,496,066

Summary of Costs and Transfers

Because HHS lacks data to account for either recoupment by health insurance or workers' compensation insurance or reduction by Medicare/Medicaid payments, the estimates offered here are reflective of estimated WTC Health Program costs only. This analysis offers an assumption about the number of individuals who might enroll in the WTC Health Program, and estimates the impact of a low rate of cancer (U.S. population average rate), and an increased rate (21 percent greater than the U.S. population average) on the number of cases and the resulting estimated treatment costs to the WTC Health Program. This analysis does not include administrative costs associated with certifying additional diagnoses of cancers that are WTC-related health conditions that might result from this action. Those costs were addressed in the interim final rule that established regulations for the WTC Health Program (76 FR 38914, July 1, 2011).

Costs and transfers of screening have been added to the summary estimates. The screening proposed by this rulemaking follows U.S. Preventive Services Task Force (USPSTF) guidelines.

The USPSTF recommends screening for colorectal cancer (cancer of the colon and rectum) using fecal occult blood testing (FOBT), sigmoidoscopy, or colonoscopy, in adults, beginning at age 50 years and continuing until age 75 years.[33] The costs and transfers include the costs of one FOBT for all Program enrollees who are over the age of 50 in 2013, and for those who will reach 50 years of age in 2014 through 2016. In the general population, HHS expects there to be 9 percent positive tests. In a previous study[34] of those with positive tests who were outside the study university system, 44 percent had a colonoscopy, 42 percent had flexible sigmoidoscopy, 11 percent had repeat FOBT, and 3 percent were told by their physician that no further examination was necessary. HHS applied these rates to the population and assigned costs for each test assuming FOBT cost was $7.60, sigmoidoscopy was $238, and a colonoscopy was $674.[35]

The USPSTF recommends breast cancer screening using biennial mammography for women beginning at age 40. HHS assumed that the population of responders was 12 percent female and the population of survivors was 50 percent female. Based on age distribution information available, HHS estimated the number of women eligible for screening between 2013 and 2016. For those screened in 2013 HHS predicted repeat screening in 2015 and for those screened in 2014 HHS predicted repeat screening in 2016. The cost of a mammogram was estimated at $139.32 based on FECA rates for mammography.[36]

Some responders and survivors enrolled or expected to enroll in the WTC Health Program already have or have access to medical insurance coverage by private health insurance, employer-provided insurance, Medicare, or Medicaid. Therefore, costs to the WTC Health Program can be divided between societal costs and transfer payments.

To describe these societal costs and transfers, the following assumptions were used. For the period of coverage between January 1, 2013 and December 31, 2013, HHS has assumed that 16.3 percent of the survivor population will be uninsured, or based on grandfathered enrollment of responders, 16,925 are covered by the FDNY health plan, while 39,482 are listed as general responders and include construction workers, contractors, and others. For this analysis, HHS assumed that the non-FDNY general responders and all future responder-enrollees are uninsured at the same 16.3 percent rate that HHS applied to the survivor population, based on those without insurance coverage in the general U.S. population.[37] Ward et al.[38] found that access to health care services, quality of care received, stage of disease at diagnosis, and survival outcomes for cancer patients varied according to socioeconomic status and demographic characteristics.

Additionally, after the implementation of provisions of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on January 1, 2014, all of the enrollees and future enrollees can be assumed to have or have access to medical insurance coverage other than through the WTC Health Program. Therefore, all treatment costs to be paid by the WTC Health Program from 2014 through 2016 are considered transfers.

Table 9 describes the allocation of WTC Health Program costs between societal costs and transfer payments based on 55,000 responders and 5,000 survivors. Table 10 describes the allocation of WTC Health Program costs between societal costs and transfer payments based on 80,000 responders and 30,000 survivors.

[33] United States Preventive Services Task Force (USPSTF) [2008]. Screening for Colorectal Cancer. Available at *http://www.uspreventiveservicestaskforce.org/uspstf/uspscolo.htm*. Accessed May 28, 2012.

[34] Mandel JS, et. al, Reducing Mortality From Colorectal Cancer by Screening for Fecal Occult Blood, NEJM 328(19): 1365–1371 (1993).

[35] Subramanian S, et. al. When Budgets Are Tight, There Are Better Options Than Colonoscopies For Colorectal Cancer Screening. Health Affairs, September 2010, 29:9, 1734–1740.

FECA Rates for FOBT, sigmoidoscopy and colonoscopy at non-facility rates: codes 82270, 45330, and 45378 respectively.

[36] FECA rates for Mammography for New York; FECA code 77057.

[37] U.S. Census Bureau [2011]. Current Population Survey. *http://www.census.gov/cps/data/*. Accessed May 26, 2012.

[38] Ward E, Halpern M, Schrag N, Cokkinides V, DeSantis C, Bandi P, Siegel R, Stewart A, Jemal A [2008]. Association of Insurance with Cancer Care Utilization and Outcomes. CA Cancer J Clin 58:9–31.

TABLE 9—BREAKDOWN OF ESTIMATED ANNUAL WTC HEALTH PROGRAM COSTS AND TRANSFERS, 80,000 & 55,000 RESPONDERS AND 30,000 AND 5,000 SURVIVORS, 2013–2016, 2011$

	Societal costs for 2013, 2011$		Annualized transfers for 2013–2016, 2011$	
	Based on the 16.3 percent of general responders and survivors who are expected to be uninsured		Discounted at 7 percent	Discounted at 3 percent
	Cancer rate		Cancer rate	
	U.S. Average	U.S. + 21%	U.S. Average	U.S. + 21%
55,000 Responders	$1,648,706	.....	$10,172,308	.....
5,000 Survivors	271,427	.....	1,572,907	.....
Colorectal and Breast Screening	204,491	.....	713,321	.....
60,000 Total	2,124,624	.....	12,458,535	.....
80,000 Responders	.....	$2,631,100	.....	$19,912,464
30,000 Survivors	.....	1,970,560	.....	12,124,118
Colorectal and Breast Screening	.....	417,521	.....	1,271,478
110,000 Total	.....	5,019,182	.....	33,308,060

Examination of Benefits (Health Impact)

This section describes qualitatively the potential benefits of the proposed rule in terms of the expected improvements in the health and health-related quality of life of potential cancer patients treated through the WTC Health Program, compared to no Program. The assessment of the health benefits for cancer patients uses the number of expected cancer cases that was estimated in the cost analysis section.

HHS does not have information on the health of the population that may have been exposed to 9/11 agents and is not currently enrolled in the WTC Health Program. In addition, HHS has only limited information about health insurance and health care services for cancers caused by exposure to 9/11 agents and suffered by any population of responders and survivors, including responders and survivors currently enrolled in the WTC Health Program and responders and survivors not enrolled in the Program. For the purposes of this analysis, HHS assumes that broad trends on demographics and access to health insurance reported by the U.S. Census Bureau and health care services for cancer similar to those reported by Ward would apply to the population of general responders (those individuals who are not members of the FDNY and who meet the eligibility criteria in 42 CFR Part 88 for WTC responders) and survivors both within and outside the Program. For the purposes of this analysis, HHS assumes that access to health insurance and health care services for FDNY responders within and outside the Program would be equivalent because this population is overwhelmingly covered by employer-based health insurance.

Although HHS cannot quantify the benefits associated with the WTC Health Program, enrollees with cancer are expected to experience a higher quality of care than they would in the absence of the Program. Mortality and morbidity improvements for cancer patients expected to enroll in the WTC Health Program are anticipated because barriers may exist to access and delivery of quality health care services for cancer patients in the absence of the services provided by the WTC Health Program. HHS anticipates benefits to cancer patients treated through the WTC Health Program, who may otherwise not have access to health care services (16.3 percent of general responders and survivors who are expected to be uninsured), to accrue in 2013. Starting in 2014, continued implementation of the Affordable Care Act will result in increased access to health insurance and health care services will improve for the general responder and survivor population that currently is uninsured. HHS is requesting public comment on issues relating to access to care, quality of care, and the potential benefits associated with the WTC Health Program.

Limitations

The analysis presented here was limited by the dearth of verifiable data on the cancer status of responders and survivors who have yet to apply for enrollment in the WTC Health Program. Because of the limited data, HHS was not able to estimate benefits in terms of averted healthcare costs. Nor was HHS able to estimate administrative costs, or indirect costs, such as averted absenteeism, short and long-term disability, and productivity losses averted due to premature mortality.

Regulatory Alternatives

As discussed in section III.D.2., above, the Administrator considered alternative approaches to the methods set forth in this rulemaking.

One alternative would involve a presumption that 9/11 exposures could have resulted in the development of *any* and *all* types of cancer in the exposed populations. A presumption that any and all types of cancer could occur after exposure to 9/11 agents does not require any scientific evidence of a positive association between exposure and a type of cancer. The Administrator declined to determine inclusion of types of cancer based on a presumption approach. The STAC affirmatively rejected a recommendation to include any and all types of cancer to the List of WTC-Related Health Conditions. The Administrator made the policy decision to include only those types of cancer when a positive relationship has been established between exposure to the 9/11 agent and human cancer.

Another alternative would be to rely on epidemiologic studies of the association of 9/11 exposures and the development of cancer or a type of cancer in 9/11-exposed populations *exclusively*. There are several limitations to using an exclusive 9/11 populations study approach. The Administrator finds that vast uncertainties exist in conducting epidemiologic studies of cancer in 9/11-exposed populations. For example, there exists only very limited, individual exposure data in 9/11-exposed populations. This lack of

personal, quantitative exposure data impedes the definitive epidemiologic evidence that exposure to 9/11 agents causes certain types of cancer in responder and survivor populations. In addition, cancer is generally a long latency set of diseases which in some cases may take many years or even decades to manifest clinically. Requiring evidence of positive associations from studies of 9/11-exposed populations exclusively does not serve the best interests of WTC Health Program members.

By expanding the scope of scientific information reviewed to include three complementary methods (including studies in 9/11 exposed populations and generally available epidemiologic criteria), the Administrator has developed a hierarchy of methods to guide consideration of whether to include types of cancers on the List of WTC-Related Health Conditions.

Effects on Other Agency Programs

HHS finds that this rulemaking also has an effect on the VCF [39] administered by DOJ. DOJ administers the VCF under rules promulgated at 28 CFR part 104. The DOJ regulations define, in 28 CFR 104.2 (f), the term ''WTC-related health condition'' to mean ''those health conditions identified as WTC-related by Title I of Public Law 111–347 and by regulations implementing that Title.'' The preamble to the VCF final rule (76 FR 54115) states, ''If the WTC Health Program determines that certain forms of cancer should be added to the list of WTC-related conditions, the final rule requires the Special Master to add such conditions to the list of presumptively covered conditions for the Fund.''

Under the VCF program, compensation awards are generally calculated using three components: Economic loss *plus* non-economic loss *minus* collateral source payments. To determine economic loss, the Special Master considers any prior loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, and loss of business or employment opportunity. The regulations provide presumed non-economic awards for deceased individuals. Because every physical injury is unique, the Special Master may determine presumed non-economic losses on a case-by-case basis for physically injured claimants. The Special Master then subtracts any collateral offsets received or eligible to be received. The computation of individual compensation due under the fund is based on factors pertinent to each individual claimant.

The statute caps the total amount of funds allocated to the VCF. The VCF regulation at 28 CFR 104.51 provides that, ''the total amount of Federal funds paid for expenditures including compensation with respect to claims filed on or after October 3, 2011, will not exceed $2,775,000,000. Furthermore, the total amount of Federal funds expended during the period from October 3, 2011, through October 3, 2016, may not exceed $875,000,000.''

To meet these requirements, the Special Master is authorized to reduce the amount of compensation due to each claimant by prorating the total amount of the compensation award determined for each individual claimant. The VCF intends to establish the fraction for proration such that all claimants receive some payment related to their claim within the overall funding limitation of the program. The Special Master may adjust the percentage of the total award that is to be paid to eligible claims based on experiential information as well as estimates related to potential future claims and availability of funds.

The amount of compensation that would be awarded to each of the living claimants who develop, or the heirs of those who died from, a covered type of cancer during the years 2002 through 2016, would be determined by individual factors considered under the VCF. Depending on the total number of new claims and compensation eligibility, the overall impact on the VCF of increasing the number of eligible VCF claimants as a result of adding eligible health condition under the WTC Health Program may be to reduce the proration fraction that is applied to all VCF claimants such that the total cost to the government remains unchanged. The additional costs to the VCF due to processing and computing the entitlement for the extra claimants eligible as a result of having a covered type of cancer, plus the costs of paying newly covered claimants their prorated share of the compensation award, would result in amounts that will not be available to pay increased shares for the claimants with non-cancer conditions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. HHS believes that this rule has ''no significant economic impact upon a substantial number of small entities'' within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The WTC Health Program has contracted with the following healthcare providers and provider network managers to offer treatment and monitoring to enrolled responders and survivors: Seven Clinical Centers of Excellence (CCE), which serve responders and survivors in the New York City metropolitan area (City of New York Fire Department; Mount Sinai School of Medicine; Research Foundation of State University of New York; New York University, Bellevue Hospital Center; University of Medicine and Dentistry of New Jersey; Long Island Jewish Medical Center; and New York City Health and Hospitals Corporation); Logistics Health Incorporated, which manages the nationwide provider network for populations geographically distant from New York City; three Data Centers, which analyze CCE data and coordinate activities (City of New York Fire Department; Mount Sinai School of Medicine; and New York City Health and Hospitals Corporation); and Emdeon, which manages pharmacy benefits.

Of these entities, six of the seven CCEs and two of the three Data Centers are hospitals (NAICS 622110—General Medical and Surgical Hospitals). The Small Business Administration (SBA) identifies as a small business those hospitals with average annual receipts below $34.5 million; none of the six fall below the SBA threshold for small businesses. The City of New York Fire Department's Bureau of Health Services, which provides medical monitoring and treatment for FDNY members as a CCE, and provides data analysis and other services for the FDNY CCE as a Data Center, is considered a local government agency (NAICS 922160—Fire Protection), and as such cannot be considered a small entity by SBA. Finally, neither Logistics Health Incorporated, which manages the national provider network, nor Emdeon, which manages pharmacy benefits, (NAICS 551112—Management of Companies and Enterprises) falls below

[39] The September 11th Victim Compensation Fund of 2001 (VCF) was initially established in 2001 pursuant to Title IV of Public Law 107–42, 115 Stat. 230 (Air Transportation Safety and System Stabilization Act) and was open for claims from December 21, 2001, through December 22, 2003. Title II of the Zadroga Act amends and reactivates the September 11th Victim Compensation Fund of 2001. Public Law 111–347. Administered through DOJ by a Special Master, the VCF provides compensation to any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the debris removal efforts that took place in the immediate aftermath of those crashes.

SBA's $7 million threshold for small businesses in that sector.

Because no small businesses are impacted by this rulemaking, HHS certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. Therefore, a regulatory flexibility analysis as provided for under RFA is not required.

C. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on, and to obtain OMB approval of, any regulation that requires 10 or more people to report information to the agency or to keep certain records. Data collection and recordkeeping requirements for the WTC Health Program are approved by OMB under ''World Trade Center Health Program Enrollment, Appeals & Reimbursement'' (OMB Control No. 0920–0891, exp. December 31, 2014). HHS has determined that no changes are needed to the information collection request already approved by OMB.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report the promulgation of this rule to Congress prior to its effective date.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or Tribal governments in the aggregate, or by the private sector. However, the rule may result in an increase in the contribution made by New York City for treatment and monitoring, as required by Title XXXIII, § 3331(d)(2). For 2012, the inflation adjusted threshold is $139 million.

F. Executive Order 12988 (Civil Justice)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does 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.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this proposed rule on children. HHS has determined that the rule would have no environmental health and safety effect on children, although an eligible child who has been diagnosed with a cancer type specified in this rulemaking may seek certification of the condition by the Administrator.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines and requests comment from the public regarding this requirement.

VI. Proposed Rule

List of Subjects in 42 CFR Part 88

Aerodigestive disorders, Appeal procedures, Cancer, Health care, Mental health conditions, Musculoskeletal disorders, Respiratory and pulmonary diseases.

For the reasons discussed in the preamble, the Department of Health and Human Services proposes to amend 42 CFR part 88 as follows:

PART 88—WORLD TRADE CENTER HEALTH PROGRAM

1. The authority citation for Part 88 continues to read as follows:

Authority: 42 U.S.C. 300mm–300mm–61, Pub. L. 111–347, 124 Stat. 3623.

§ 88.1 [Amended]

2. Amend § 88.1 by adding paragraph (4) to the definition of ''List of WTC-related health conditions'' to read as follows:

§ 88.1 Definitions.

* * * * *

List of WTC-related health conditions

* * *

* * * * *

(4) Cancers: This list includes those individual cancer types specified in Table 1, below, according to the International Classification of Diseases, 10th Edition (ICD–10) and International Classification of Diseases, 9th Edition (ICD–9).

BILLING CODE P

Table 1 -- List of types of cancer included in the List of WTC-Related Health Conditions

Region	Type of Cancer	ICD-10[1]	ICD-9[2]
Head & Neck	**Malignant neoplasm of lip**	**C00**	**140**
	• External upper lip	• C00.0	• 140.0
	• External lower lip	• C00.1	• 140.1
	• External lip, unspecified	• C00.2	• 140.9
	• Upper lip, inner aspect	• C00.3	• 140.3
	• Lower lip, inner aspect	• C00.4	• 140.4
	• Lip, unspecified, inner aspect	• C00.5	• 140.5
	• Commissure of lip	• C00.6	• 140.6
	• Overlapping lesion of lip	• C00.8	• 140.8
	• Lip, unspecified	• C00.9	• 140.9
	Malignant neoplasm of base of tongue	**C01**	**141.0**
	Malignant neoplasm of other and unspecified parts of tongue	**C02**	**141.1-141.9**
	• Dorsal surface of tongue	• C02.0	• 141.1
	• Border of tongue	• C02.1	• 141.2
	• Ventral surface of tongue	• C02.2	• 141.3
	• Anterior two-thirds of tongue, part unspecified	• C02.3	• 141.4
	• Lingual tonsil	• C02.4	• 141.6
	• Overlapping lesion of tongue	• C02.8	• 141.5, 141.8
	• Tongue, unspecified	• C02.9	• 141.9
	Malignant neoplasm of parotid gland	**C07**	**142.0**
	Malignant neoplasm of other and unspecified major salivary glands	**C08**	**142.1-142.9**
	• Submandibular gland	• C08.0	• 142.1
	• Sublingual gland	• C08.1	• 142.2
	• Overlapping lesion of major salivary glands	• C08.8	• 142.8
	• Major salivary gland, unspecified	• C08.9	• 142.9
	Malignant neoplasm of floor of mouth	**C04**	**144**
	• Anterior floor of mouth	• C04.0	• 144.0
	• Lateral floor of mouth	• C04.1	• 144.1

	• Overlapping lesion of floor of mouth	• C04.8	• 144.8
	• Floor of mouth, unspecified	• C04.9	• 144.9
	Malignant neoplasm of gum	**C03**	**143**
	• Upper gum	• C03.0	• 143.0
	• Lower gum	• C03.1	• 143.1
	• Gum, unspecified	• C03.9	• 143.8-143.9
	Malignant neoplasm of palate	**C05**	**145.2-145.5, 149.9**
	• Hard palate	• C05.0	• 145.2
	• Soft palate	• C05.1	• 145.3
	• Uvula	• C05.2	• 145.4
	• Overlapping lesion of palate	• C05.8	• 145.5
	• Palate, unspecified	• C05.9	• 145.9
	Malignant neoplasm of other and unspecified parts of mouth	**C06**	**145.0-145.1 145.6, 145.8-145.9**
	• Cheek mucosa	• C06.0	• 145.0
	• Vestibule of mouth	• C06.1	• 145.1
	• Retromolar area	• C06.2	• 145.6
	• Overlapping lesion of other and unspecified parts of mouth	• C06.8	• 145.8
	• Mouth, unspecified	• C06.9	• 149.9
	Malignant neoplasm of tonsil	**C09**	**146.0-146.2, 146.5**
	• Tonsillar fossa	• C09.0	• 146.1
	• Tonsillar pillar (anterior) (posterior)	• C09.1	• 146.2
	• Overlapping lesion of tonsil	• C09.8	• 146.5
	• Tonsil, unspecified	• C09.9	• 146.0
	Malignant neoplasm of oropharynx	**C10**	**146.3-146.4, 146.6-146.9**
	• Vallecula	• C10.0	• 146.3
	• Anterior surface of epiglottis	• C10.1	• 146.4
	• Lateral wall of oropharynx	• C10.2	• 146.6
	• Posterior wall of oropharynx	• C10.3	• 146.7
	• Branchial cleft	• C10.4	• 146.9
	• Overlapping lesion of oropharynx	• C10.8	• 146.8

	• Oropharynx, unspecified	• C10.9	• 146.9
	Malignant neoplasm of nasopharynx	**C11**	**147**
	• Superior wall of nasopharynx	• C11.0	• 147.0
	• Posterior wall of nasopharynx	• C11.1	• 147.1
	• Lateral wall of nasopharynx	• C11.2	• 147.2
	• Anterior wall of nasopharynx	• C11.3	• 147.3
	• Overlapping lesion of nasopharynx	• C11.8	• 147.8
	• Nasopharynx, unspecified	• C11.9	• 147.9
	Malignant neoplasm of piriform sinus	**C12**	**148.1**
	Malignant neoplasm of hypopharynx	**C13**	**148.0-148.9**
	• Postcricoid region	• C13.0	• 148.0
	• Aryepiglottic fold, hypopharyngeal aspect	• C13.1	• 148.2
	• Posterior wall of hypopharynx	• C13.2	• 148.3
	• Overlapping lesion of hypopharynx	• C13.8	• 148.8
	• Hypopharynx, unspecified	• C13.9	• 148.9
	Malignant neoplasms of other and ill-defined conditions in the lip, oral cavity and pharynx	**C14**	**149**
	• Pharynx, unspecified	• C14.0	• 149.0
	• Waldeyer's ring	• C14.2	• 149.1
	• Overlapping lesion of lip, oral cavity and pharynx	• C14.8	• 149.8
	Malignant neoplasm of nasal cavity	**C30**	**160.0**
	• Nasal cavity	• C30.0	• 160.0
	Malignant neoplasm of accessory sinuses	**C31**	**160.2-160.9**
	• Maxillary sinus	• C31.0	• 160.2
	• Ethmoidal sinus	• C31.1	• 160.3
	• Frontal sinus	• C31.2	• 160.4
	• Sphenoidal sinus	• C31.3	• 160.5
	• Overlapping lesion of accessory sinuses	• C31.8	• 160.8
	• Accessory sinus, unspecified	• C31.9	• 160.9
	Malignant neoplasm of larynx	**C32**	**161**
	• Glottis	• C32.0	• 161.0
	• Supraglottis	• C32.1	• 161.1
	• Subglottis	• C32.2	• 161.2
	• Laryngeal cartilage	• C32.3	• 161.3
	• Overlapping lesion of larynx	• C32.8	• 161.8

	• Larynx, unspecified	• C32.9	• 161.9
Digestive System	**Malignant neoplasm of the esophagus**	**C15**	**150**
	• Cervical part of esophagus	• C15.0	• 150.0
	• Thoracic part of esophagus	• C15.1	• 150.1
	• Abdominal part of esophagus	• C15.2	• 150.2
	• Upper third of esophagus	• C15.3	• 150.3
	• Middle third of esophagus	• C15.4	• 150.4
	• Lower third of esophagus	• C15.5	• 150.5
	• Overlapping lesion of esophagus	• C15.8	• 150.8
	• Esophagus, unspecified	• C15.9	• 150.9
	Malignant neoplasm of the stomach	**C16**	**151**
	• Cardia	• C16.0	• 151.0
	• Fundus of stomach	• C16.1	• 151.3
	• Body of stomach	• C16.2	• 151.4
	• Pyloric antrum	• C16.3	• 151.2
	• Pylorus	• C16.4	• 151.1
	• Lesser curvature of stomach, unspecified	• C16.5	• 151.5
	• Greater curvature of stomach, unspecified	• C16.6	• 151.6
	• Overlapping lesion of stomach	• C16.8	• 151.8
	• Stomach, unspecified	• C16.9	• 151.9
	Malignant neoplasm of colon	**C18**	**153**
	• Caecum	• C18.0	• 153.4
	• Appendix	• C18.1	• 153.5
	• Ascending colon	• C18.2	• 153.6
	• Hepatic flexure	• C18.3	• 153.0
	• Transverse colon	• C18.4	• 153.1
	• Splenic flexure	• C18.5	• 153.7
	• Descending colon	• C18.6	• 153.2
	• Sigmoid colon	• C18.7	• 153.3
	• Overlapping lesion of colon	• C18.8	• 153.8
	• Colon, unspecified	• C18.9	• 153.9
	Malignant neoplasm of rectosigmoid junction	**C19**	**154.0**
	Malignant neoplasm of rectum	**C20**	**154.1**
	Malignant neoplasm of other and ill-defined digestive organs	**C26.0, C26.8-C26.9**	**154.8**
	• Intestinal tract, part unspecified	• C26.0	• 154.8
	• Overlapping lesion of digestive system	• C26.8	• 154.8
	• Ill-defined sites within the digestive system	• C26.9	• 154.8
	Malignant neoplasm of liver and intrahepatic bile ducts	**C22**	**155**
	• Liver cell carcinoma	• C22.0	• 155.0

	• Intrahepatic bile duct carcinoma	• C22.1	• 155.1
	• Hepatoblastoma	• C22.2	• 155.0
	• Angiosarcoma of liver	• C22.3	• 155.0
	• Other sarcomas of liver	• C22.4	• 155.0
	• Other specified carcinomas of liver	• C22.7	• 155.0
	• Liver, unspecified	• C22.9	• 155.2
	Malignant neoplasm of retroperitoneum and peritoneum	**C48**	**158**
	• Retroperitoneum	• C48.0	• 158.0
	• Specified parts of peritoneum	• C48.1	• 158.8
	• Peritoneum, unspecified	• C48.2	• 158.9
	• Overlapping lesion of retroperitoneum and peritoneum	• C48.8	• 158.8
Respiratory System	**Malignant neoplasm of trachea**	**C33**	**162.0**
	Malignant neoplasm of bronchus and lung	**C34**	**162.2-162.9**
	• Main bronchus	• C34.0	• 162.2
	• Upper lobe, bronchus or lung	• C34.1	• 162.3
	• Middle lobe, bronchus or lung	• C34.2	• 162.4
	• Lower lobe, bronchus or lung	• C34.3	• 162.5
	• Overlapping lesion of bronchus and lung	• C34.8	• 162.8
	• Bronchus or lung, unspecified	• C34.9	• 162.9
	Malignant neoplasm of heart, mediastinum and pleura	**C38**	**164.1-164.9, 163.9**
	• Heart	• C38.0	• 164.1
	• Anterior mediastinum	• C38.1	• 164.2
	• Posterior mediastinum	• C38.2	• 164.3
	• Mediastinum, part unspecified	• C38.3	• 164.9
	• Pleura	• C38.4	• 163.9
	• Overlapping lesion of heart, mediastinum and pleura	• C38.8	• 164.8
	Malignant neoplasm of other and ill-defined sites in the respiratory system and intrathoracic organs	**C39**	**165**
	• Upper respiratory tract, part unspecified	• C39.0	• 165.0
	• Overlapping lesion of respiratory and intrathoracic organs	• C39.8	• 165.8

	• III-defined sites within the respiratory system	• C39.9	• 165.9
Mesothelium	**Mesothelioma**	**C45**	**158.8, 163.9, 164.1**
	• Mesothelioma of pleura	• C45.0	• 163.9
	• Mesothelioma of peritoneum	• C45.1	• 158.8
	• Mesothelioma of pericardium	• C45.2	• 164.1
	• Mesothelioma of other sites	• C45.7	No Code
	• Mesothelioma, unspecified	• C45.9	No Code
Soft Tissue	**Malignant neoplasm of peripheral nerves and autonomic nervous system**	**C47**	**171**
	• Peripheral nerves of head, face and neck	• C47.0	• 171.0
	• Peripheral nerves of upper limb, including shoulder	• C47.1	• 171.2
	• Peripheral nerves of lower limb, including hip	• C47.2	• 171.3
	• Peripheral nerves of thorax	• C47.3	• 171.4
	• Peripheral nerves of abdomen	• C47.4	• 171.5
	• Peripheral nerves of pelvis	• C47.5	• 171.6
	• Peripheral nerves of trunk, unspecified	• C47.6	• 171.7
	• Overlapping lesion of peripheral nerves and autonomic nervous system	• C47.8	• 171.8
	• Peripheral nerves and autonomic nervous system, unspecified	• C47.9	• 171.9
	Malignant neoplasm of other connective and soft tissue	**C49**	**171**
	• Connective and soft tissue of head, face and neck	• C49.0	• 171.0
	• Connective and soft tissue of upper limb, including shoulder	• C49.1	• 171.2
	• Connective and soft tissue of lower limb, including hip	• C49.2	• 171.3
	• Connective and soft tissue of thorax	• C49.3	• 171.4
	• Connective and soft tissue of abdomen	• C49.4	• 171.5
	• Connective and soft tissue of pelvis	• C49.5	• 171.6
	• Connective and soft tissue of trunk, unspecified	• C49.6	• 171.7
	• Overlapping lesion of connective and soft tissue	• C49.8	• 171.8
	• Connective and soft tissue, unspecified	• C49.9	• 171.9
Skin (Non-Melanoma)	**Other malignant neoplasms of skin**	**C44**	**172, 187.7**
	• Skin of lip	• C44.0	• 172.0
	• Skin of eyelid, including canthus'	• C44.1	• 172.1

	• Skin of ear and external auricular canal	• C44.2	• 172.2
	• Skin of other and unspecified parts of face	• C44.3	• 172.3
	• Skin of scalp and neck	• C44.4	• 172.4
	• Skin of trunk	• C44.5	• 172.5
	• Skin of upper limb, including shoulder	• C44.6	• 172.6
	• Skin of lower limb, including hip	• C44.7	• 172.7
	• Overlapping lesion of skin	• C44.8	• 172.8
	• Malignant neoplasm of skin, unspecified	• C44.9	• 172.9
	Scrotum	**C63.2**	**187.7**
Melanoma	**Malignant melanoma of skin**	**C43**	**172**
	• Malignant melanoma of lip	• C43.0	• 172.0
	• Malignant melanoma of eyelid, including canthus	• C43.1	• 172.1
	• Malignant melanoma of ear and external auricular canal	• C43.2	• 172.2
	• Malignant melanoma of other and unspecified parts of face	• C43.3	• 172.3
	• Malignant melanoma of scalp and neck	• C43.4	• 172.4
	• Malignant melanoma of trunk	• C43.5	• 172.5
	• Malignant melanoma of upper limb, including shoulder	• C43.6	• 172.6
	• Malignant melanoma of lower limb, including hip	• C43.7	• 173.7
	• Overlapping malignant melanoma of skin	• C43.8	• 173.8
	• Malignant melanoma of skin, unspecified	• C43.9	• 173.9
Breast	**Malignant neoplasm of breast**	**C50**	**174**
	• Nipple and areola	• C50.0	• 174.0
	• Central portion of breast	• C50.1	• 174.1
	• Upper-inner quadrant of breast	• C50.2	• 174.2
	• Lower-inner quadrant of breast	• C50.3	• 174.3
	• Upper-outer quadrant of breast	• C50.4	• 174.4
	• Lower-outer quadrant of breast	• C50.5	• 174.5
	• Axillary tail of breast	• C50.6	• 174.6
	• Overlapping lesion of breast	• C50.8	• 174.8
	• Breast, unspecified	• C50.9	• 174.9

Female Reproductive Organs	**Malignant neoplasm of ovary**	**C56**	**183.0**
Urinary System	**Malignant neoplasm of bladder**	**C67**	**183.0**
	• Trigone of bladder	• C67.0	• 188.0
	• Dome of bladder	• C67.1	• 188.1
	• Lateral wall of bladder	• C67.2	• 188.2
	• Anterior wall of bladder	• C67.3	• 188.3
	• Posterior wall of bladder	• C67.4	• 188.4
	• Bladder neck	• C67.5	• 188.5
	• Ureteric orifice	• C67.6	• 188.6
	• Urachus	• C67.7	• 188.7
	• Overlapping lesion of bladder	• C67.8	• 188.8
	• Bladder, unspecified	• C67.9	• 188.9
	Malignant neoplasms of kidney except renal pelvis	**C64**	**189.0**
	Malignant neoplasm of renal pelvis	**C65**	**189.1**
	Malignant neoplasm of ureter	**C66**	**189.2**
	Malignant neoplasm of other and unspecified urinary organs	**C68**	**189.3-189.9**
	• Urethra	• C68.0	• 189.3
	• Paraurethral gland	• C68.1	• 189.4
	• Overlapping lesion of urinary organs	• C68.8	• 189.8
	• Urinary organ, unspecified	• C68.9	• 189.9
Eye & Orbit	**Malignant neoplasm of eye and adnexa**	**C69**	**190**
	• Conjunctiva	• C69.0	• 190.3
	• Cornea	• C69.1	• 190.4
	• Retina	• C69.2	• 190.5
	• Choroid	• C69.3	• 190.6
	• Ciliary body	• C69.4	• 190.0
	• Lacrimal gland and duct	• C69.5	• 190.2
	• Orbit	• C69.6	• 190.1
	• Overlapping lesion of eye and adnexa	• C69.8	• 190.8
	• Eye, unspecified	• C69.9	• 190.0
Thyroid	**Malignant neoplasm of thyroid gland**	**C73**	**193**

Blood & Lymphoid Tissue	**Hodgkin's disease**	**C81**	*
	• Lymphocytic predominance	• C81.0	• 201.4
	• Nodular sclerosis	• C81.1	• 201.5
	• Mixed cellularity	• C81.2	• 201.6
	• Lymphocytic depletion	• C81.3	• 201.7
	• Other Hodgkin's disease	• C81.7	• 201.0-201.2
	• Hodgkin's disease, unspecified	• C81.9	• 201.9
	Follicular [nodular] non-Hodgkin lymphoma	**C82**	*
	• Small cleaved cell, follicular	• C82.0	• 202.0
	• Mixed small cleaved and large cell, follicular	• C82.1	• 202.0
	• Large cell, follicular	• C82.2	• 202.0
	• Other types of follicular non-Hodgkin lymphoma	• C82.7	• 202.0
	• Follicular non-Hodgkin lymphoma, unspecified	• C82.9	• 202.0
	Diffuse non-Hodgkin lymphoma	**C83**	*
	• Small cell (diffuse)	• C83.0	• 200.8
	• Small cleaved cell (diffuse)	• C83.1	• 202.4
	• Mixed small and large cell (diffuse)	• C83.2	• 200.8
	• Large cell (diffuse)	• C83.3	• 200.0
	• Immunoblastic (diffuse)	• C83.4	• 200.8
	• Lymphoblastic (diffuse)	• C83.5	• 200.1
	• Undifferentiated (diffuse)	• C83.6	• 202.8
	• Burkitt's tumor	• C83.7	• 200.2
	• Other types of diffuse non-Hodgkin lymphoma	• C83.8	• 200.8
	• Diffuse non-Hodgkin lymphoma, unspecified	• C83.9	• 202.0
	Peripheral and cutaneous T-cell lymphomas	**C84**	*
	• Mycosis fungoides	• C84.0	• 202.1
	• Sezary's disease	• C84.1	• 202.2
	• T-zone lymphoma	• C84.2	• 202.8
	• Lymphoepithelioid lymphoma	• C84.3	• 202.8
	• Peripheral T-cell lymphoma	• C84.4	• 202.0
	• Other and unspecified T-cell lymphomas	• C84.5	• 202.0
	Other and unspecified types of non-Hodgkin lymphoma	**C85**	*
	• Lymphosarcoma	• C85.0	• 200.1
	• B-cell lymphoma, unspecified	• C85.1	• 202.8

	• Other specified types of non-Hodgkin lymphoma	• C85.7	• 202.3
	• Non-Hodgkin lymphoma, unspecified	• C85.9	• 200.8
	Malignant immunoproliferative diseases	**C88**	*
	• Waldenstrom's macroglobulinemia	• C88.0	• 273.3
	• Alpha heavy chain disease	• C88.1	• 203.8
	• Gamma heavy chain disease	• C88.2	• 203.8
	• Immunoproliferative small intestinal disease	• C88.3	• 203.8
	• Other malignant immunoproliferative diseases	• C88.7	• 203.8
	• Malignant immunoproliferative disease, unspecified	• C88.9	• 203.8
	Multiple myeloma and malignant plasma cell neoplasms	**C90**	*
	• Multiple myeloma	• C90.0	• 203.0
	• Plasma cell leukemia	• C90.1	• 203.1
	• Plasmacytoma, extramedullary	• C90.2	• 203.8
	Lymphoid leukemia	**C91**	*
	• Acute lymphoblastic leukemia	• C91.0	• 204.0
	• Chronic lymphocytic leukemia	• C91.1	• 204.1
	• Subacute lymphocytic leukemia	• C91.2	• 204.2
	• Prolymphocytic leukemia	• C91.3	• 204.9
	• Hairy-cell leukemia	• C91.4	• 202.4
	• Adult T-cell leukemia	• C91.5	• 204.8
	• Other lymphoid leukemia	• C91.7	• 204.8
	• Lymphoid leukemia, unspecified	• C91.9	• 204.9
	Myeloid leukemia	**C92**	*
	• Acute myeloid leukemia	• C92.0	• 205.0
	• Chronic myeloid leukemia	• C92.1	• 205.1
	• Subacute myeloid leukemia	• C92.2	• 205.2
	• Myeloid sarcoma	• C92.3	• 205.3
	• Acute promyelocytic leukemia	• C92.4	• 205.0
	• Acute myelomonocytic leukemia	• C92.5	• 205.0
	• Other myeloid leukemia	• C92.7	• 205.8
	• Myeloid leukemia, unspecified	• C92.9	• 205.9
	Monocytic leukemia	**C93**	*
	• Acute monocytic leukemia	• C93.0	• 206.0
	• Chronic monocytic leukemia	• C93.1	• 206.1
	• Subacute monocytic leukemia	• C93.2	• 206.2
	• Other monocytic leukemia	• C93.7	• 206.8
	• Monocytic leukemia, unspecified	• C93.9	• 206.9

	Other leukemias of specified cell type	**C94**	*
	• Acute erythremia and erythroleukemia	• C94.0	• 207.0
	• Chronic erythremia	• C94.1	• 207.1
	• Acute megakaryoblastic leukemia	• C94.2	• 207.2
	• Mast cell leukemia	• C94.3	• 207.8
	• Acute pan myelosis	• C94.4	• 238.7
	• Acute myelofibrosis	• C94.5	• 238.7
	• Other specified leukemias	• C94.7	• 207.8
	Leukemia of unspecified cell type	**C95**	*
	• Acute leukemia of unspecified cell type	• C95.0	• 208.0
	• Chronic leukemia of unspecified cell type	• C95.1	• 208.1
	• Subacute leukemia of unspecified cell type	• C95.2	• 208.2
	• Other leukemia of unspecified cell type	• C95.7	• 208.8
	• Leukemia, unspecified	• C95.9	• 208.9
	Other and unspecified malignant neoplasms of lymphoid, hematopoietic and related tissue	**C96**	*
	• Letterer-Siwe disease	• C96.0	• 202.5
	• Malignant histiocytosis	• C96.1	• 202.3
	• Malignant mast cell tumor	• C96.2	• 202.6
	• True histiocytic lymphoma	• C96.3	• 202.3
	• Other specified malignant neoplasms of lymphoid, hematopoietic and related tissue	• C96.7	• 202.8
	• Malignant neoplasm of lymphoid, hematopoietic and related tissue, unspecified	• C96.9	• 202.9
Childhood cancers	Any type of cancer occurring in a person less than 20 years of age.		
Rare cancers	Any type of cancer affecting populations smaller than 200,000 individuals in the United States, i.e., occurring at an incidence rate less than 0.08 percent of the U.S. population. Rare cancers will be determined on a case-by-case basis.		

*For ICD-10 C81-C96 the following ICD 9 codes correlate: 200-208, 238.7, 273.3, 289.8

1. WHO (World Health Organization) [1978]. International Classification of Diseases, Ninth Revision. Geneva: World Health Organization.
2. WHO (World Health Organization) [1997]. International Classification of Diseases. Tenth Revision. Geneva: World Health Organization.

Dated: May 31, 2012.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2012–14203 Filed 6–8–12; 4:15 pm]

BILLING CODE C

Reader Aids

Federal Register

Vol. 77, No. 114

Wednesday, June 13, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–741–6000**

Laws — **741–6000**

Presidential Documents

Executive orders and proclamations — **741–6000**

The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

Privacy Act Compilation — **741–6064**

Public Laws Update Service (numbers, dates, etc.) — **741–6043**

TTY for the deaf-and-hard-of-hearing — **741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JUNE

32391–32880 1
32881–33062 4
33063–33288 5
33289–33594 6
33595–33944 7
33945–34178 8
34179–34780 11
34781–35240 12
35241–35616 13

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8829 32875
8830 32877
8831 32879
8832 33595
8833 33597
8834 33599
8835 33601
8836 33603

Administrative Orders:
Memorandums:
Memorandum of April 24, 2012 33945
Memorandum of May 23, 2012 32391
Memorandum of June 7, 2012 35241
Presidential Determinations:
No. 2012–07 of April 24, 2012 33947

5 CFR

Ch. LXXXIII 34179
9301 34179

Proposed Rules:
532 34854
1200 33663
1201 33663
1203 33663
1208 33663
1209 33663

6 CFR

5 33605

Proposed Rules:
5 33683

7 CFR

7 33063
28 33289
205 33290
319 34781
614 34186
930 33303
985 33076
1700 35245

Proposed Rules:
932 33104
1205 34855
1280 34868
3201 33270

9 CFR

11 33607
55 35542
81 35542
93 34783
94 34783
95 34783

10 CFR

26 33619
71 34194
73 34194

Proposed Rules:
430 ..... 33106, 35299
431 32916
1703 ..... 32433, 33980

12 CFR

1 ..... 35253, 35259
5 35253
16 35253
28 35253
160 ..... 35253, 35259
225 33949
241 32881
1236 33950

Proposed Rules:
1026 33120
1282 34263

14 CFR

39 ..... 32884, 32887, 32889, 32892, 33083, 33619, 33622, 34206
71 ..... 32393, 32895, 32896, 34208, 34209, 34210, 34211
97 ..... 33085, 33087
121 34784

Proposed Rules:
39 ..... 32433, 32437, 32439, 32918, 33125, 33127, 33129, 33332, 33334, 34281, 34283, 34870, 34872, 34874, 34876, 34878, 34881, 35304, 35306
71 ..... 32921, 33685, 33687
73 35308
121 32441

15 CFR

Proposed Rules:
740 33688
742 ..... 33688, 35310
774 ..... 33688, 35310
906 33980
1400 34883

16 CFR

Proposed Rules:
305 33337

17 CFR

46 35200
275 35263

19 CFR

12 33624
111 33964
163 33964

20 CFR

404 35264

21 CFR

179.....34212
510.....32897
Proposed Rules:
172.....35317

22 CFR

120.....33089
123.....33089
124.....33089
126.....33089
127.....33089
129.....33089
Proposed Rules:
121.....33698, 35317

25 CFR

Proposed Rules:
543.....32444
547.....32465

26 CFR

1.....34785, 34788
Proposed Rules:
1.....34884, 34887

27 CFR

478.....33625, 33630
Proposed Rules:
9.....33985

29 CFR

Proposed Rules:
1206.....33701

30 CFR

Proposed Rules:
917.....34888
936.....34890
944.....34892
950.....34894

31 CFR

344.....33634
1010.....33635
1020.....33638

33 CFR

100 .....33089, 33337, 33967, 34215, 35266
117 .....32393, 32394, 33337, 34797
151.....33969, 35268
165 .....32394, 32898, 33089, 33094, 33308, 33309, 33312, 33970, 34797, 34798, 35268, 35271
Proposed Rules:
100.....33130, 35321
165.....34285, 34894

36 CFR

242.....35482
Proposed Rules:
220.....35323

38 CFR

3.....34218
9.....32397

39 CFR

20.....33640
111.....33314

40 CFR

51.....33642
52 .....32398, 33642, 33659, 34218, 34801, 34808, 34810, 34819, 35273, 35279, 35285, 35287
81.....34221, 34819
82.....33315
85.....34130
86.....34130
97.....34830
180 .....32400, 32401, 35291, 35295
271.....34229
1039.....34130
Proposed Rules:
52 .....32481, 32483, 32493, 33022, 33360, 33363, 33372, 33380, 34288, 34297, 34300, 34302, 34306, 34897, 34898, 34906, 35326, 35327, 35329
60.....33812
63.....33812
80.....34915
85.....34149
86.....34149
122.....34315, 34927
123.....34315, 34927
124.....34315, 34927
125.....34315, 34927
725.....35331
1039.....34149

42 CFR

417.....32407
422.....32407
423.....32407
Proposed Rules:
88.....35574
412.....34326
413.....34326
424.....34326
476.....34326
489.....34326

45 CFR

Proposed Rules:
156.....33133

46 CFR

25.....33860
27.....33860
28.....33860
31.....33860
34.....33860
35.....33860
62.....33860
71.....33860
76.....33860
78.....33860
91.....33860
95.....33860
97.....33860
107.....33860
108.....33860
112.....33860
115.....33860
118.....33860
119.....33860
122.....33860
131.....33860
132.....33860
147.....33860
162 .....33860, 33969, 35268
167.....33860
169.....33860
176.....33860
181.....33860
182.....33860
185.....33860
189.....33860
190.....33860
193.....33860
194.....33860
196.....33860
532.....33971

47 CFR

1.....33097
11.....33661
15.....33098
54.....33097
64.....33662, 34233
73.....32900
90.....33972
Proposed Rules:
11.....33995
54.....33896
64.....35336
73.....33997

49 CFR

234.....35164
371.....32901
375.....32901
386.....32901, 34249
387.....32901
390.....34846
395.....33098, 33331
396.....34846
541.....32903
Proposed Rules:
594.....35338
595.....33998
1572.....35343

50 CFR

17.....33100, 35118
100.....35482
226.....32909
622 .....32408, 32913, 32914, 34254
665.....34260
679 .....33103, 34262, 34853
697.....32420
Proposed Rules:
17 .....32483, 32922, 33142, 33143, 34338
20.....34931
600.....35349
665.....34331, 34334

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 2947/P.L. 112–129

To provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota. (June 8, 2012; 126 Stat. 375)

H.R. 3992/P.L. 112–130

To allow otherwise eligible Israeli nationals to receive E-2 nonimmigrant visas if similarly situated United States nationals are eligible for similar nonimmigrant status in Israel. (June 8, 2012; 126 Stat. 376)

H.R. 4097/P.L. 112–131

John F. Kennedy Center Reauthorization Act of 2012 (June 8, 2012; 126 Stat. 377)

Last List June 11, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.