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

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Notice of December 28, 2012

Waiver From Rescission of Unobligated Funds Under the American Recovery and Reinvestment Act of 2009

Consistent with the authority provided to me under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 1306 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), I have determined that it is not in the best interest of the Nation to rescind after December 31, 2012, the unobligated amounts made available in Division A of the American Recovery and Reinvestment Act with respect to the accounts with the following Treasury Account Fund Symbol codes and names, not to exceed the amounts stated:

Department of Defense: 97–0501—Military Construction, Defense-wide, $104 million;

Department of Energy: 89–0209—Title 17 Innovative Technology Loan Guarantee Program, $96 million;

Social Security Administration: 28X8704—Limitation on Administrative Expenses, $148 million; and

Small Business Administration: 73–4268—Surety Bond Guarantees Revolving Fund, $15 million.

My determination is based on the following consideration:

The retention of these unobligated balances will allow the executive agencies to continue to execute projects vital to the national interest in a fiscally responsible manner.

Therefore, in accordance with section 1306 of Public Law 111–203, I am waiving the requirements for repayment for the stated amounts of unobligated funds made available in the American Recovery and Reinvestment Act with respect to the accounts described above.

In accordance with section 1603(b) of the American Recovery and Reinvestment Act of 2009, as added by section 1306 of Public Law 111–203, all amounts that are rescinded pursuant to section 1603(b) shall be returned to the General Fund of the Treasury where such amounts shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.

This notice shall be published in the *Federal Register*.

THE WHITE HOUSE,
Washington, December 28, 2012.

[FR Doc. 2013–00042
Filed 1–3–13; 8:45 am]
Billing code 3295–F3

Rules and Regulations

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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 70, and 72

RIN 3150–AI55

[NRC–2011–0286]

Decommissioning Planning During Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a new regulatory guide (RG) 4.22, ''Decommissioning Planning During Operations.'' The guide describes a method that the NRC staff considers acceptable for use by holders of licenses in complying with the NRC's Decommissioning Planning Rule (DPR) (76 FR 35512; June 17, 2011). The DPR went into effect on December 17, 2012, and is intended to minimize the likelihood of new ''legacy sites,'' which are NRC-licensed facilities with insufficient resources to complete decommissioning activities and termination of a license at the end of operations.

ADDRESSES: Please refer to Docket ID NRC–2011–0286 when contacting the NRC about the availability of information regarding this document. You may submit access information related to this document, which the NRC possesses and is publicly available, using the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0286. 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 regulatory guide is available electronically under ADAMS Accession Number ML12158A361. The regulatory analysis may be found in ADAMS under Accession No. ML12158A375.
- *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. Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Edward O'Donnell, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7455, email: *Edward.ODonnell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a new guide in the NRC's Regulatory Guide series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

II. Further Information

RG 4.22 describes a method that the NRC staff considers acceptable for use by holders of licenses in complying with the DPR. On December 13, 2011 (76 FR 77431), the NRC issued Draft Regulatory Guide, DG–4014, ''Decommissioning Planning During Operations,'' in the **Federal Register** with a public comment period ending on February 10, 2012. Subsequently, the public comment period was extended from February 10, 2012 to March 30, 2012 (77 FR 8751; February 15, 2012) to allow more time for comment. In addition, the NRC staff conducted a workshop at NRC headquarters and a concurrent webinar on July 12, 2012, and the comments received at the workshop were considered in the revision of DG–4014. The written and oral public comments suggested areas that needed clarification, and the NRC revised the draft guide to address these areas. The public comments and NRC staff response to them may be found in ADAMS under Accession No. ML12278A021.

III. Backfitting and Issue Finality

The statement of considerations for the DPR discussed that rule's compliance with applicable backfitting provisions (76 FR 35511, at 35562–63). This regulatory guide presents the NRC staff's first guidance addressing compliance with § 20.1501(a) and (b) of Title 10 of the *Code of Federal Regulations* (10 CFR) and the newly-added paragraph (c) of 10 CFR 20.1406. The first issuance of guidance on a newly-changed or newly-added rule provision does not constitute backfitting or raise issue finality concerns, inasmuch as the guidance must be consistent with the regulatory requirements in the newly-changed or newly-added rule provisions and the backfitting and issue finality considerations applicable to the newly-changed or newly-added rule provisions must logically apply to this guidance. Therefore, issuance of guidance addressing the newly-changed and newly-added provisions of the amended rule does not constitute issuance of ''changed'' or ''new'' guidance within the meaning of the definition of ''backfitting'' in 10 CFR 50.109(a)(1). Similarly, the issuance of the guidance addressing the newly-changed or newly-added provisions of the amended rule, by itself, does not constitute an action inconsistent with any of the issue finality provisions in 10 CFR part 52. Accordingly, no further consideration of backfitting or issue finality is needed as part of the issuance of this guidance addressing compliance with the newly-changed provisions of § 20.1501 and newly-added paragraph (c) of § 20.1406.

Dated at Rockville, Maryland, this 27th day of December, 2012.

For the Nuclear Regulatory Commission.

Jazel D. Parks,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2012–31705 Filed 1–3–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–368]

Establishment of Drug Codes for 26 Substances

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final rule.

SUMMARY: On July 9, 2012, the President signed into law the Synthetic Drug Abuse Prevention Act of 2012 (SDAPA). SDAPA amends the Controlled Substances Act by placing 26 substances in Schedule I. DEA is publishing this rule to establish drug codes for these 26 substances, and to make technical and conforming amendments in accordance with SDAPA.

DATES: *Effective Date:* January 4, 2013.

FOR FURTHER INFORMATION CONTACT: John W. Partridge, Executive Assistant, Office of Diversion Control, Drug Enforcement Administration, Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

Legal Authority

DEA administers, implements, and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended (hereinafter, ''CSA''). The implementing regulations for these statutes are found in Title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. Under the CSA, controlled substances are classified in one of five schedules based upon their potential for abuse, their currently accepted medical use, the lack of accepted safety for use under medical supervision, and the degree of dependence the substance may cause. 21 U.S.C. 812. The list of legislatively scheduled controlled substances is found at 21 U.S.C. 812(c) and the current list of scheduled substances is published at 21 CFR part 1308. These initial schedules may be modified either by legislation or by rulemaking.

Purpose of This Rulemaking

On July 9, 2012, the SDAPA of 2012, Public Law 112–144, Title XI, Subtitle D, became effective. SDAPA amended the CSA by legislatively placing ''cannabimimetic agents'' [1] and 26 substances in Schedule I. Public Law 112–144, Title XI, Subtitle D, Section 1152. DEA is publishing this rule to establish drug codes for these 26 substances. These 26 substances include 15 cannabimimetic agents, 9 phenethylamines, and 2 cathinones and are listed in the regulatory text section, below.

Related Procedural Matters

At the time SDAPA became effective on July 9, 2012, a total of 8 substances were covered by temporary scheduling final orders: 5 synthetic cannabinoids (JWH–018, JWH–073, JWH–200, CP–47,497, and CP–47,497 C8 homologue) [2] and 3 synthetic cathinones (mephedrone, MDPV, and methylone).[3] DEA also issued a Notice of Proposed Rulemaking (NPRM) in March 2012, to place the 5 synthetic cannabinoids (JWH–018, JWH–073, JWH–200, CP–47,497, and CP–47,497 C8 homologue) permanently in Schedule I.[4] With the sole exception of methylone,[5] these substances were specifically placed in Schedule I by SDAPA. Therefore, it is no longer necessary to finalize the NPRM regarding the 5 synthetic cannabinoids (JWH–018, JWH–073, JWH–200, CP–47,497, and CP–47,497 C8 homologue), or to take further action with respect to 2 of the 3 synthetic cathinones (mephedrone and MDPV). However, DEA has posted a copy of the Secretary of Health and Human Services (HHS) Scientific and Medical Evaluation and Scheduling Recommendations regarding the 5 synthetic cannabinoids on *www.regulations.gov* so that the public can benefit from the scientific review that was undertaken with respect to these substances.[6] These HHS documents can be found on *www.regulations.gov* under Docket ID ''DEA–2012–0001.''

In addition to establishing drug codes for these 26 substances,[7] this rulemaking makes several technical and conforming amendments to 21 CFR 1308.11 in accordance with SDAPA. This rulemaking adds a new subsection (g) to 21 CFR 1308.11 and gives it the title ''cannabimimetic agents,'' redesignates the old subsection (g) as (h) and retains its title as ''[t]emporary listing of substances subject to emergency scheduling,'' and transfers 7 of the 8 substances currently listed in 21 CFR 1308.11(g) under the title of ''[t]emporary listing of substances subject to emergency scheduling,'' to either the new subsection (g) entitled ''cannabimimetic agents'' or to the previously existing subsection (d) entitled ''[h]allucinogenic substances.'' In summary, as a result of SDAPA, a new subsection entitled ''cannabimimetic agents'' will be created and will initially contain 15 substances, the existing subsection entitled ''[h]allucinogenic substances'' will increase by 11 substances, and the existing subsection entitled ''temporary listing of substances subject to emergency scheduling'' will be redesignated from (g) to (h) and will decrease from 8 substances to 1 substance (methylone).

[1] SDAPA also included a definition of ''cannabimimetic agents.'' Although this rule is only addressing the 26 specific substances, DEA intends to issue a separate rulemaking that will address the broader definition of cannabimimetic agents. Even in the absence of such a rulemaking as of July 9, 2012, cannabimimetic agents, as defined in SDAPA are controlled under Schedule I.

[2] *See* DEA Notice of Intent entitled ''Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I,'' published in the **Federal Register** on November 24, 2010, at 75 FR 71635, DEA Notice of Intent; correction entitled ''Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I; Correction,'' published in the **Federal Register** on January 13, 2011, at 76 FR 2287, DEA Final Order entitled ''Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids into Schedule I,'' published in the **Federal Register** on March 1, 2011, at 76 FR 11075, and DEA Final Order entitled ''Schedules of Controlled Substances: Extension of Temporary Placement of Five Synthetic Cannabinoids Into Schedule I of the Controlled Substances Act,'' published in the **Federal Register** on February 29, 2012, at 77 FR 12201.

[3] *See* DEA Notice of Intent entitled ''Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cathinones Into Schedule I,'' published in the **Federal Register** on September 8, 2011, at 76 FR 55616 and DEA Final Order entitled ''Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cathinones Into Schedule I,'' published in the **Federal Register** on October 21, 2011, at 76 FR 65371.

[4] *See* Schedules of Controlled Substances: Placement of Five Synthetic Cannabinoids Into Schedule I, 77 FR 12508, Mar. 1, 2012.

[5] DEA extended the temporary scheduling of methylone in a Final Order published in the **Federal Register** on October 18, 2012 at 77 FR 64032.

[6] HHS did not provide a Scientific and Medical Evaluation and Scheduling Recommendation regarding mephedrone and MDPV.

[7] Some of these substances (for example, JWH–018) had already received drug codes by virtue of the prior temporary scheduling actions discussed above. Such substances will retain their previously established drug codes but are included in this rule for purposes of completeness and to ensure that each of these 26 substances are properly classified in the *Code of Federal Regulations.* Substances for which a drug code has not previously been established (for example, 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E)) will have a drug code assigned to them by this rule.

Regulatory Analyses

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. This rule merely establishes drug codes for the 26 substances placed in Schedule I by SDAPA, and makes several technical and conforming amendments in accordance with SDAPA. Because DEA has no discretion with respect to these changes, publishing a notice of proposed rulemaking and soliciting public comment are unnecessary. In addition, because the placement of these 26 substances in Schedule I has already been in effect since July 9, 2012, DEA finds good cause exists to make this rule effective immediately upon publication.

Executive Orders 12866 and 13563

This rule, establishing drug codes for the 26 substances placed in Schedule I by SDAPA, and making technical and conforming amendments in accordance with SDAPA has been developed in accordance with the principles of Executive Orders 12866 and 13563.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law, impose enforcement responsibilities on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Executive Order 13175

This rule is required by statute, will not have tribal implications, and will not impose substantial direct compliance costs on Indian tribal governments.

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

This rule does not involve a collection of information within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $136,000,000 or more (adjusted for inflation) in any one year, and 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. 2 U.S.C. 1532.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in cost or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and export markets. However, DEA has submitted a copy of this rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.11 by:
■ a. Adding new paragraphs (d)(36) through (d)(46);
■ b. Redesignating paragraph (g) as paragraph (h) and revising newly redesignated paragraph (h)(1); and
■ c. Adding a new paragraph (g).

The additions and revisions read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(36) 4-methylmethcathinone (Mephedrone) 1248
(37) 3,4-methylenedioxypyrovalerone (MDPV) 7535
(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E) .. 7509
(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D) 7508
(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C) 7519
(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I) 7518
(42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2) 7385
(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4) 7532
(44) 2-(2,5-Dimethoxyphenyl)ethanamine (2C–H) 7517
(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N) 7521
(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P) 7524

* * * * *

(g) *Cannabimimetic agents.* Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP–47,497) 7297
(2) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47,497 C8-homolog) 7298
(3) 1-pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678) 7118
(4) 1-butyl-3-(1-naphthoyl)indole (JWH–073) 7173
(5) 1-hexyl-3-(1-naphthoyl)indole (JWH–019) 7019
(6) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200) 7200
(7) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250) 6250
(8) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081) 7081
(9) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122) 7122
(10) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398) 7398
(11) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201) 7201
(12) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694) 7694

(13) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19 and RCS–4)	7104
(14) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole 7008 (SR–18 and RCS–8)	7008
(15) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH–203)	7203

(h) * * *

(1) 3,4-methylenedioxy-N-methylcathinone (Other names: methylone)	7540

* * * * *

Dated: December 21, 2012.

Michele M. Leonhart,

Administrator.

[FR Doc. 2012–31698 Filed 1–3–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9609]

RIN 1545–BK45; 1545–BL29

Treasury Inflation-Protected Securities Issued at a Premium; Bond Premium Carryforward

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations that provide guidance on the tax treatment of Treasury Inflation-Protected Securities issued with more than a de minimis amount of premium. This document also contains temporary regulations that provide guidance on the tax treatment of a debt instrument with a bond premium carryforward in the holder's final accrual period, including a Treasury bill acquired at a premium. The regulations in this document provide guidance to holders of Treasury Inflation-Protected Securities and other debt instruments. The text of the temporary regulations in this document also serves as the text of the proposed regulations (REG–140437–12) set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on January 4, 2013.

Applicability Dates: For the dates of applicability, see §§ 1.171–2T(a)(4)(i)(C)(*2*) and 1.1275–7(h)(2).

FOR FURTHER INFORMATION CONTACT: William E. Blanchard, (202) 622–3900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 5, 2011, temporary regulations (TD 9561) relating to the federal income tax treatment of Treasury Inflation-Protected Securities issued with more than a de minimis amount of premium were published in the **Federal Register** (76 FR 75781). *See* § 1.1275–7T. A notice of proposed rulemaking (REG–130777–11) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (76 FR 75829). No comments were received on the notice of proposed rulemaking. No public hearing was requested or held.

The proposed regulations are adopted without substantive change by this Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Provisions

1. Final Regulations—Treasury Inflation-Protected Securities (TIPS) Issued With More Than a De Minimis Amount of Premium

The following is a general explanation of the provisions in the final regulations, which are the same as the provisions in the temporary regulations. However, the provisions that were in the temporary regulations are now contained in newly designated paragraphs (g)(2) and (h)(2) of § 1.1275–7 of the final regulations.

TIPS are securities issued by the Department of the Treasury. The principal amount of a TIPS is adjusted for any inflation or deflation that occurs over the term of the security. The rules for the taxation of inflation-indexed debt instruments, including TIPS, are contained in § 1.1275–7 of the Income Tax Regulations. *See also* § 1.171–3(b) (rules for inflation-indexed debt instruments with bond premium).

Under § 1.1275–7(d)(2)(i), the coupon bond method described in § 1.1275–7(d) is not available with respect to inflation-indexed debt instruments that are issued with more than a de minimis amount of premium (that is, an amount greater than .0025 times the stated principal amount of the security times the number of complete years to the security's maturity). Prior to 2011, TIPS had not been issued with more than a de minimis amount of premium, and the coupon bond method had applied to TIPS rather than the more complex discount bond method described in § 1.1275–7(e).

In 2011, the Treasury Department anticipated that TIPS might be issued with more than a de minimis amount of premium. As a result, in Notice 2011–21 (2011–19 IRB 761), to provide a more uniform method for the federal income taxation of TIPS, the Treasury Department and the IRS announced that regulations would be issued to provide that taxpayers must use the coupon bond method described in § 1.1275–7(d) for TIPS issued with more than a de minimis amount of premium. As a result, the discount bond method described in § 1.1275–7(e) would not apply to TIPS issued with more than a de minimis amount of premium. Notice 2011–21 provided that the regulations would be effective for TIPS issued on or after April 8, 2011. On December 5, 2011, the Treasury Department and the IRS published the temporary regulations in the **Federal Register**. These temporary regulations contained the rules described in Notice 2011–21 and applied to TIPS issued on or after April 8, 2011. As noted earlier in this preamble, the final regulations are substantively the same as the temporary regulations.

Under the final regulations, a taxpayer must use the coupon bond method described in § 1.1275–7(d) for a TIPS that is issued with more than a de minimis amount of premium. The final regulations include the example from the temporary regulations illustrating how to apply the coupon bond method to a TIPS issued with more than a de minimis amount of premium and a negative yield. As stated in Notice 2011–21, the final regulations apply to TIPS issued on or after April 8, 2011. *See* § 601.601(d)(2)(ii)(b).

2. Temporary Regulations—Treatment of Bond Premium Carryforward in a Holder's Final Accrual Period

During the consideration of the final regulations relating to TIPS issued with more than a de minimis amount of premium, the Treasury Department and the IRS received questions about the holder's treatment of a taxable zero coupon debt instrument, including a Treasury bill, acquired at a premium and a negative yield. In this situation, as described in more detail below, under §§ 1.171–2 and 1.1016–5(b) of the current regulations, a holder that elected to amortize the bond premium generally would have a capital loss upon the sale, retirement, or other disposition of the debt instrument rather than an ordinary deduction under section 171(a)(1) for all or a portion of the bond premium. This situation, which has arisen as a result of recent market conditions, was not contemplated when the current regulations were adopted in 1997.

Under section 171 and § 1.171–2 of the current regulations, an electing holder amortizes bond premium by offsetting the qualified stated interest (as

defined in § 1.1273–1(c)) allocable to an accrual period with the bond premium allocable to the period. If the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to the accrual period, the excess is treated by the holder as a bond premium deduction under section 171(a)(1) for the accrual period. However, the amount treated as a bond premium deduction is limited to the amount by which the holder's total interest inclusions on the bond in prior accrual periods exceed the total amount treated by the holder as a bond premium deduction on the bond in prior accrual periods. If the bond premium allocable to an accrual period exceeds the sum of the qualified stated interest allocable to the accrual period and the amount treated as a deduction under section 171(a)(1), the excess is carried forward to the next accrual period and is treated as bond premium allocable to that period. *See* § 1.171–2(a)(4). Under § 1.1016–5(b) of the current regulations, a holder's basis in a bond is reduced by the amount of bond premium used to offset qualified stated interest on the bond and the amount of bond premium allowed as a deduction under section 171(a)(1).

In the case of a zero coupon debt instrument, including a Treasury bill, there is no qualified stated interest. Therefore, under § 1.171–2, the amount of bond premium allocable to an accrual period will always exceed the qualified stated interest allocable to the accrual period (zero) and, because there will be no bond premium deductions in any prior accrual periods, such amount will be carried forward to the next accrual period. As a result, upon the sale, retirement, or other disposition of the debt instrument, there will be a bond premium carryforward determined as of the end of the holder's final accrual period in an amount equal to the total amount of bond premium allocable to the holder's final accrual period, which includes the bond premium allocable by the holder to each prior accrual period. In this situation, because there is no qualified stated interest to offset the bond premium carryforward and because the holder's basis in the bond has not been reduced, under the current regulations, the holder would have a capital loss in an amount at least equal to the bond premium carryforward. The Treasury Department and the IRS, however, believe that the amount of the bond premium carryforward in this situation should be treated as a bond premium deduction under section 171(a)(1) rather than as a capital loss for the holder's taxable year in which the sale, retirement, or other disposition occurs.

In order to provide immediate guidance to investors, the temporary regulations in this document and the notice of proposed rulemaking that cross-references these temporary regulations (REG–140437–12) address this issue by adding a specific rule for the treatment of a bond premium carryforward determined as of the end of the holder's final accrual period for any taxable bond for which the holder has elected to amortize bond premium. Thus, for example, under § 1.171–2T(a)(4)(i)(C), an electing holder that purchases a taxable zero coupon debt instrument at a premium deducts all or a portion of the premium under section 171(a)(1) when the instrument is sold, retired, or otherwise disposed of rather than as a capital loss.

In addition, because the rules in § 1.171–3 for inflation-indexed debt instruments, including TIPS, generally treat a bond premium carryforward as a deflation adjustment, § 1.171–3 is amended to apply the rule in § 1.171–2T(a)(4)(i)(C)(*1*) to any remaining deflation adjustment attributable to bond premium as of the end of the holder's accrual period in which the bond is sold, retired, or otherwise disposed of.

Section 1.171–2T(a)(4)(i)(C)(*1*) applies to a debt instrument (bond) acquired on or after January 4, 2013. A taxpayer, however, may rely on this section for a debt instrument (bond) acquired before that date.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business. No comments were received. In addition, pursuant to section 7805(f) of the Code, the temporary regulations in this document have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is William E. Blanchard, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.1275–7T and by adding an entry in numerical order to read in part as follows:

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

Section 1.171–2T also issued under 26 U.S.C. 171(e). * * *

■ **Par. 2.** Section 1.171–2T is added to read as follows:

§ 1.171–2T Amortization of bond premium (temporary).

(a)(1) through (a)(4)(i)(B) [Reserved]. For further guidance, see § 1.171–2(a)(1) through (a)(4)(i)(B).

(C) *Carryforward in holder's final accrual period*—(*1*) If there is a bond premium carryforward determined under § 1.171–2(a)(4)(i)(B) as of the end of the holder's accrual period in which the bond is sold, retired, or otherwise disposed of, the holder treats the amount of the carryforward as a bond premium deduction under section 171(a)(1) for the holder's taxable year in which the sale, retirement, or other disposition occurs. For purposes of § 1.1016–5(b), the holder's basis in the bond is reduced by the amount of bond premium allowed as a deduction under this paragraph (a)(4)(i)(C)(*1*).

(*2*) *Effective/applicability date.* Notwithstanding § 1.171–5(a)(1), paragraph (a)(4)(i)(C)(*1*) of this section applies to a bond acquired on or after January 4, 2013. A taxpayer, however, may rely on paragraph (a)(4)(i)(C)(*1*) of this section for a bond acquired before that date.

(ii) through (c) [Reserved]. For further guidance, see § 1.171–2(a)(4)(ii) through (c).

(d) *Expiration date.* The applicability of this section expires on or before December 31, 2015.

■ **Par. 3.** Section 1.171–3 is amended by adding a new sentence before the last sentence in paragraph (b) to read as follows:

§ 1.171–3 Special rules for certain bonds.

* * * * *

(b) * * * However, the rules in § 1.171–2T(a)(4)(i)(C) apply to any remaining deflation adjustment attributable to bond premium as of the end of the holder's accrual period in which the bond is sold, retired, or otherwise disposed of. * * *

* * * * *

■ **Par. 4.** Section 1.1271–0(b) is amended by revising the entries for § 1.1275–7(g) and (h) to read as follows:

§ 1.1271–0 Original issue discount; effective date; table of contents.

* * * * *

(b) * * *

* * * * *

§ 1.1275–7 Inflation-indexed debt instruments.

* * * * *

(g) TIPS.

(1) Reopenings.

(2) TIPS issued with more than a de minimis amount of premium.

(h) Effective/applicability dates.

(1) In general.

(2) TIPS issued with more than a de minimis amount of premium.

■ **Par. 5.** Section 1.1275–7 is amended as follows:

■ 1. Revising the last sentence of paragraph (b)(1).

■ 2. Adding a new sentence at the end of paragraph (d)(2)(i).

■ 3. Revising paragraph (g).

■ 4. Revising paragraph (h).

The revisions and addition read as follows:

§ 1.1275–7 Inflation-indexed debt instruments.

* * * * *

(b) * * *

(1) * * * For example, this section applies to Treasury Inflation-Protected Securities (TIPS).

* * * * *

(d) * * *

(2) * * *

(i) * * * See paragraph (g)(2) of this section, however, for the treatment of TIPS issued with more than a de minimis amount of premium.

* * * * *

(g) *TIPS*—(1) *Reopenings.* For rules concerning a reopening of TIPS, see paragraphs (d)(2), (k)(3)(iii), and (k)(3)(v) of § 1.1275–2.

(2) *TIPS issued with more than a de minimis amount of premium*—(i) *Coupon bond method.* Notwithstanding paragraph (d)(2)(i) of this section, the coupon bond method described in paragraph (d) of this section applies to TIPS issued with more than a de minimis amount of premium. For this purpose, the de minimis amount is determined using the principles of § 1.1273–1(d).

(ii) *Example.* The following example illustrates the application of the bond premium rules to a TIPS issued with bond premium:

Example. (i) *Facts.* X, a calendar year taxpayer, purchases at original issuance TIPS with a stated principal amount of $100,000 and a stated interest rate of .125 percent, compounded semiannually. For purposes of this example, assume that the TIPS are issued in Year 1 on January 1, stated interest is payable on June 30 and December 31 of each year, and that the TIPS mature on December 31, Year 5. X pays $102,000 for the TIPS, which is the issue price for the TIPS as determined under § 1.1275–2(d)(1). Assume that the inflation-adjusted principal amount for the first coupon in Year 1 is $101,225 (resulting in an interest payment of $63.27) and for the second coupon in Year 1 is $102,500 (resulting in an interest payment of $64.06). X elects to amortize bond premium under § 1.171–4. (For simplicity, contrary to actual practice, the TIPS in this example were issued on the date with respect to which the calculation of the first coupon began.)

(ii) *Bond premium.* The stated interest on the TIPS is qualified stated interest under § 1.1273–1(c). X acquired the TIPS with bond premium of $2,000 (basis of $102,000 minus the TIPS' stated principal amount of $100,000). *See* §§ 1.171–1(d), 1.171–3(b), and paragraph (f)(3) of this section. The $2,000 is more than the de minimis amount of premium for the TIPS of $1,250 (.0025 times the stated principal amount of the TIPS ($100,000) times the number of complete years to the TIPS' maturity (5 years)). Under paragraph (g)(2)(i) of this section, X must use the coupon bond method to determine X's income from the TIPS.

(iii) *Allocation of bond premium.* Under § 1.171–3(b), the bond premium of $2,000 is allocable to each semiannual accrual period by assuming that there will be no inflation or deflation over the term of the TIPS. Moreover, for purposes of § 1.171–2, the yield of the securities is determined by assuming that there will be no inflation or deflation over their term. Based on this assumption, for purposes of section 171, the TIPS provide for semiannual interest payments of $62.50 and a $100,000 payment at maturity. As a result, the yield of the securities for purposes of section 171 is −0.2720 percent, compounded semiannually. Under § 1.171–2, the bond premium allocable to an accrual period is the excess of the qualified stated interest allocable to the accrual period ($62.50 for each accrual period) over the product of the taxpayer's adjusted acquisition price at the beginning of the accrual period (determined without regard to any inflation or deflation) and the taxpayer's yield. Therefore, the $2,000 of bond premium is allocable to each semiannual accrual period in Year 1 as follows: $201.22 to the accrual period ending on June 30, Year 1 (the excess of the stated interest of $62.50 over ($102,000 × −0.002720/2)); and $200.95 to the accrual period ending on December 31, Year 1 (the excess of the stated interest of $62.50 over ($101,798.78 × −0. 002720/2)). The adjusted acquisition price at the beginning of the accrual period ending on December 31, Year 1 is $101,798.78 (the adjusted acquisition price of $102,000 at the beginning of the accrual period ending on June 30, Year 1 reduced by the $201.22 of premium allocable to that accrual period).

(iv) *Income determined by applying the coupon bond method and the bond premium rules.* Under paragraph (d)(4) of this section, the application of the coupon bond method to the TIPS results in a positive inflation adjustment in Year 1 of $2,500, which is includible in X's income for Year 1. However, because X acquired the TIPS at a premium and elected to amortize the premium, the premium allocable to Year 1 will offset the income on the TIPS as follows: The premium allocable to the first accrual period of $201.22 first offsets the interest payable for that period of $63.27. The remaining $137.95 of premium is treated as a deflation adjustment that offsets the positive inflation adjustment. *See* § 1.171–3(b). The premium allocable to the second accrual period of $200.95 first offsets the interest payable for that period of $64.06. The remaining $136.89 of premium is treated as a deflation adjustment that further offsets the positive inflation adjustment. As a result, X does not include in income any of the stated interest received in Year 1 and includes in Year 1 income only $2,225.16 of the positive inflation adjustment for Year 1 ($2,500 − $137.94 − $136.89).

(h) *Effective/applicability dates*—(1) *In general.* This section applies to an inflation-indexed debt instrument issued on or after January 6, 1997.

(2) *TIPS issued with more than a de minimis amount of premium.* Notwithstanding paragraph (h)(1) of this section, paragraph (g)(2) of this section applies to TIPS issued with more than a de minimis amount of premium on or after April 8, 2011.

§ 1.1275–7T [Removed]

■ **Par. 6.** Section 1.1275–7T is removed.

■ **Par. 7.** Section 1.1286–2 is amended by removing the language ''Inflation-Indexed'' and adding the language ''Inflation-Protected'' in its place.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: December 20, 2012.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2012–31747 Filed 1–3–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–1070]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation schedule of the S.R. 74 Bridge, across the Atlantic Intracoastal Waterway (AIWW) mile 283.1, at Wrightsville Beach, NC. This deviation is necessary to accommodate the 2013 Quintiles Wrightsville Beach Full and Half Marathon. This deviation allows the bridge to remain in the closed position during the race.

DATES: This deviation is effective from 5 a.m. through 10 a.m. on Sunday, March 17, 2013.

ADDRESSES: The docket for this temporary deviation, USCG–2012–1070, is available online by going to *http://www.regulations.gov,* inserting USCG–2012–1070 in the ''Search'' box and then clicking ''Search''. The docket is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Kashanda Booker, Bridge Administration Branch, Fifth Coast Guard District; telephone 757–398–6227, email *Kashanda.l.booker@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Quintiles Wrightsville Beach Full and Half Marathon committee on behalf of the North Carolina Department of Transportation (NCDOT) has requested a temporary deviation from the current operating schedule for the S.R. 74 Bascule Drawbridge across the AIWW mile 283.1, at Wrightsville Beach, NC. The requested deviation will accommodate the 2013 Quintiles Wrightsville Beach Full and Half Marathon scheduled for Sunday, March 17, 2013. To facilitate this event, the draw of the bridge will be maintained in the closed-to-navigation position from 5 a.m. until 10 a.m. to allow race participants to cross during the scheduled event.

The current operating schedule for the bridge is set out in 33 CFR 117.821(a)(4). The regulation requires the bridge to open on signal for vessels at all times except that from 7 a.m. until 7 p.m. the bridge shall open on the hour; every third and fourth Saturday in September the bridge shall remain closed from 7 a.m. until 11 a.m.; and the last Saturday of October or the first or second Saturday of November the bridge shall remain closed from 7 a.m. until 10:30 a.m. The bascule drawbridge has a vertical clearance of 20 feet above mean high water (MHW) in the closed position. Vessels that can pass through the bridge in the closed position may do so at any time.

Since the race is an annual event, local waterway users should be familiar with the closure. To ensure that waterway users are aware of the closure, the Coast Guard will issue a Local and Broadcast Notice to Mariners to allow mariners to schedule their transits accordingly. There are no alternate routes available to vessels. Most waterway traffic consists of recreational boats with a few barges and tugs during the daytime. The bridge is able to open for emergencies.

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

Dated: December 18, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–31647 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–1055]

RIN 1625–AA00

Safety Zone; Hampton Harbor Channel Obstruction, Hampton Harbor; Hampton, NH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Hampton Harbor in the vicinity of Hampton Harbor Bridge due to a partially submerged dredge excavator obstructing the channel. This temporary final rule is necessary to protect vessels transiting the area from the obstruction. This zone is intended to prohibit vessels from coming within 100 yards of point 42 53′763″ N, 070 48′986″ W until the obstruction is cleared. Persons or vessels may not enter into this zone unless authorized by the Captain of the Port, Sector Northern New England.

DATES: This rule is effective in the CFR on January 4, 2013 until January 31, 2013. This rule is effective with actual notice for purposes of enforcement on November 30, 2012. This rule will remain in effect through January 31, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–1055]. 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 Ensign Elizabeth V. Morris, Waterways Management Division at Coast Guard Sector Northern New England, telephone 207–741–0398, email *Elizabeth.V.Morris@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 and contrary to the public interest. The Coast Guard was notified of the obstruction immediately upon its occurrence late in the evening on November 29, 2012 but this was insufficient time to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because this regulation is necessary to ensure the immediate safety of users of the waterway.

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 a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

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

The safety zone is being issued to ensure the safety of persons and vessels in Hampton Harbor within the proximity of the partially submerged excavator.

C. Discussion of the Final Rule

On the evening of November 29, 2012, a dredging barge was working in the vicinity of the Hampton Harbor Bridge. During operations, a cable snapped and the excavator on board the barge fell into the water within the channel. The excavator is now partially submerged near the bridge. This safety zone is required to protect persons and vessels from the safety hazards associated with this obstruction to the channel. This safety zone will encompass all waters within a 100 yard radius of center point 42 53′763″ N, 070 48′986″ W and will be effective immediately and until January 31, 2013.

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.

The economic effect of this rule will not be significant for the following reasons: The safety zone will be of limited duration. Vessels may be authorized to transit the zone with permission of the Captain of the Port, Sector Northern New England. Additionally, maritime advisories will be broadcast during the duration of the enforcement period.

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.

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

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

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the safety zone. However, this rule will not have a significant economic impact on a substantial number of small entities due to the time of year in which this rule takes place and advance notifications will be made to the local community by marine information broadcasts.

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 is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction. This rule involves creation of a temporary safety zone for a limited period of time. An environmental analysis checklist and a categorical exclusion determination will be 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, and Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–1055 to read as follows:

§ 165.T01–1055 Safety Zone; Hampton Harbor Channel Obstruction, Hampton Harbor; Hampton, NH.

(a) *Location.* All navigable waters from surface to bottom within a 100 yard radius of position 42 53′763″ N, 070 48′986″ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply. During the enforcement period, entry into, transiting, mooring, anchoring or remaining within this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) This temporary safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port or his designated on-scene patrol personnel. 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 or his designated representatives.

(3) Persons and vessels may request permission to enter the Safety Zone by contacting the Captain of the Port or the Captain of the Port's on-scene representative on VHF–16 or via phone at 207–767–0303.

(4) The ''designated representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, or onboard a local or state agency vessel that is authorized to act in support of the Coast Guard. Additionally, the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

Dated: November 30, 2012.

B. S. Gilda,

Captain, U. S. Coast Guard, Acting Captain of the Port, Sector Northern New England.

[FR Doc. 2012–31648 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 78, No. 3
Friday, January 4, 2013

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575AC93

Civil Monetary Penalties

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency) proposes to implement two civil monetary penalty provisions. First, RHS proposes to amend its regulations to create a new section, for imposing civil monetary penalties under the authority of 42 U.S.C. 1490s (section 543 of the Housing Act of 1949, as amended (Act)) (Housing Act CMP). Second, RHS proposes to adopt the USDA civil monetary penalty provisions for the Program Fraud Civil Remedies Act of 1986 (PFCRA) in a revision to an existing section (PFCRA CMP). The new section will include an amended version of the existing Housing Act CMP provision together with additional language providing procedural guidance.

DATES: Written comments must be received on or before February 4, 2013 to be assured of consideration.

ADDRESSES: You may submit comments to this proposed rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., 7th Floor, address listed above.

FOR FURTHER INFORMATION CONTACT: Stephanie White, Director, Multi-Family Housing Portfolio Management Division, Rural Housing Service, Stop 0782, 1400 Independence Avenue SW., Washington, DC 20250–0782, Telephone: 202–720–1615.

SUPPLEMENTARY INFORMATION:

Executive Order 12866—Classification

This proposed rule has been determined to be non-significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Authority

The Housing Act CMP provision is authorized under section 543(b) of the Housing Act of 1949, as amended (42 U.S.C. 1490s(b)). The PFCRA is codified at 31 U.S.C. 3801–3812. PFCRA establishes an administrative remedy against any person who makes a false, fictitious, or fraudulent claim or written statement to certain federal agencies, such as the United States Department of Agriculture.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G. RHS has determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Under Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

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. This rule does not impose substantial direct compliance costs on State and local Governments; therefore, consultation with the States is not required.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

The revisions in this rulemaking for 7 CFR part 3560 are subject to the Paperwork Reduction Act package with the assigned OMB control number of 0575–0189. No changes are being proposed that would impact that package.

E-Government Act Compliance

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

Programs Affected

The programs affected by this regulation are listed in the Catalog of Federal Domestic Assistance under Section 514 program and Section 516 program (10.405); Section 515 program (10.415); Section 521 (10.427); and Section 542 (10.448).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the proposed rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this proposed rule, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov* to request such consultation.

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans and grants are subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan and grant in a manner delineated in 7 CFR part 3015 subpart V.

Background

USDA implemented the Program Fraud Civil Remedies Act of 1986 in regulations at 7 CFR part 1, subpart L. The Agency is proposing to incorporate those regulations in this rule.

Section 543(b) of the Act states that the Secretary may, after notice and opportunity for a hearing, impose a civil monetary penalty against any person, including its owners, officers, directors, general partners, limited partners, or employees, who knowingly and materially violate, or participate in the violation of the Act, or the regulations and agreements used to implement the Act. Such violations include:

(A) Submitting information to the Secretary that is false;

(B) Providing the Secretary with false certifications;

(C) Failing to submit information requested by the Secretary in a timely manner;

(D) Failing to maintain the property subject to loans made or guaranteed under the Act in good repair and condition, as determined by the Secretary;

(E) Failing to provide acceptable management for a project which received a loan made or guaranteed under the Act that is acceptable to the Secretary; or

(F) Failing to comply with the provisions of applicable civil rights statutes and regulations.

In 2004, the Agency included Housing Act CMPs in 7 CFR 3560.461(b) with limited procedural detail. Consequently, the Agency has found Housing Act CMPs to not be an effective remedy. This proposed rule will provide sufficient procedural detail to enable the Agency to utilize Housing Act CMPs while at the same time providing due process protection to program participants. By implementing procedures for Housing Act CMPs, the Agency will be provided an important tool to enforce compliance with relevant statutes, regulations, and loan documents. The Agency's Housing Act CMP amount will be published in 7 CFR part 3, subpart I.

List of Subjects in 7 CFR Part 3560

Aged, Loan programs-Agriculture, Loan programs-Housing and Community Development, Low and moderate income housing, Public housing, Rent subsidies.

For the reasons set forth in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart J—Special Servicing, Enforcement, Liquidation, and Other Actions

■ 2. Amend § 3560.461 by revising paragraph (b) to read as follows:

§ 3560.461 Enforcement provisions.

* * * * *

(b) *Civil monetary penalties.* (1) This section is in accordance with the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–U.S.C. 3831) which provides for civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to Federal authorities or to their agents.

(2) Proceedings under this section will be in accordance with subpart L of 7 CFR part 1, ''Procedures Related to Administrative Hearings under the Program Fraud Civil Remedies Act of 1986.''

(3) The Administrator of the Rural Housing Service, or designee, is authorized to serve as Agency Fraud Claims Officer for the purposes of implementing the requirements of this subsection.

(4) Civil penalties and assessments imposed pursuant to this section are in addition to any other remedies that maybe prescribed by law or imposed under this subpart.

* * * * *

■ 3. Add § 3560.464 to read as follows:

§ 3560.464 Civil monetary penalties.

(a) The Agency may impose a civil monetary penalty in accordance with this section against any individual or entity, including its owners, officers, general partners, limited partners, or employees (Respondent(s), who knowingly and materially violate, or participate in the violation of, the provisions of the programs covered by this part or agreements made in furtherance of those programs. ''Knowingly'' includes having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this part. Actions covered include, but are not limited to:

(1) Submitting information to the Agency that is false.

(2) Providing the Agency with false certifications.

(3) Failing to submit information requested by the Agency in a timely manner.

(4) Failing to maintain the property subject to loans or grants made under the programs covered by this part in good repair and condition, as determined by the Agency.

(5) Failing to provide management for a project that received a loan or grant made under this part that is acceptable to the Agency. Such failures include, without limitation, failure to provide fiscal management in accordance with Agency regulations including failure to maintain reserve accounts and unauthorized use of fund in such reserve accounts, failure to handle vacancies in accordance with Agency regulations, and failure to handle rent collection in accordance with Agency regulations.

(6) Failing to comply with the provisions of applicable civil rights statutes and regulations.

(b) *Amount.* (1) Civil penalties shall be assessed and adjusted in accordance with 7 CFR part 3, subpart I or its successor regulation and must be subject to a fine per violation of not more than the amount specified in that subpart.

(2) In determining the amount of a civil monetary penalty under this section, the Agency must take into consideration:

(i) The gravity of the offense;

(ii) Any history of prior offenses by the Respondent (including offenses occurring prior to the enactment of this section);

(iii) Any injury to tenants;

(iv) Any injury to the public;

(v) Any benefits received by the Respondent as a result of the violation;

(vi) Deterrence of future violations;

(vii) The degree of the Respondent's culpability; and

(viii) The Respondent's ability to pay the penalty, which ability shall be presumed unless raised as an affirmative defense or mitigating factor by the Respondent. The ability to pay is determined based on an assessment of the Respondent's resources available both presently and prospectively from which the Agency could ultimately recover the total award, which may be predicted based on historical evidence.

(3) *Payment of penalties.* No payment of a penalty assessed under this section may be made from funds provided under any program covered by this part or from funds of a project which serve as security for a loan made from a program covered by this part.

(c) *Agency Official.* The Administrator of the Rural Housing Service, or designee, (Agency Official) may initiate a civil money penalty proceeding against a Respondent who has committed any of the actions referenced in paragraph (a) of this section.

(d) *Pre-penalty notice.* Prior to determining whether to issue a complaint under paragraph (f) of this section, the Agency Official shall issue a written pre-penalty notice to the Respondent. This pre-penalty notice shall include the following:

(1) That the Rural Housing Service is considering seeking a civil money penalty;

(2) The specific violations alleged;

(3) The maximum civil money penalty that may be imposed;

(4) The opportunity to reply in writing to the Agency Official within 30 days after the date of the notice;

(5) That failure to respond with the 30-day period may result in issuance of a complaint under paragraph (f) of this section without consideration of any information that the Respondent may wish to provide;

(6) That upon receipt of the pre-penalty notice, the Respondent is required to preserve and maintain all documents and data, including electronically stored data, within Respondent's possession or control that may relate to the violations alleged in the pre-penalty notice. The Agency shall also preserve such documents or data upon the issuance of the pre-penalty notice;

(7) That any response to the pre-penalty notice shall be in a format prescribed in the pre-penalty notice, and shall address the factors in subsection (a), any arguments opposing the imposition of a civil money penalty, and any affirmative defense or mitigating factor concerning the Respondent's ability to pay the proposed civil money penalty, including documentary evidence to support any of Respondent's arguments or defenses; and.

(8) That if a complaint is issued under § 3560.464(f), the Respondent may request a hearing before an administrative law judge. Proceedings under this section will be in accordance with subpart L of 7 CFR part 1.

(e) *Response.* (1) The response shall be in a format prescribed in the pre-penalty notice. The response shall address the factors set forth in paragraph (d) of this section and include any arguments opposing the imposition of a civil money penalty that the Respondent may wish to present.

(2) In any case where Respondent seeks to raise ability to pay as an affirmative defense or argument in mitigation, the Respondent shall provide documentary evidence as part of its response.

(f) *Complaint.* (1) Upon the expiration of the 30-day response period for the pre-penalty notice, the Agency Official shall determine whether to seek a civil money penalty. Such determination shall be based upon a review of the pre-penalty notice, the response, if any, and the factors listed in paragraph (a)(2) of this section.

(2) If a determination is made to seek a civil money penalty, a complaint shall be served upon the Respondent and simultaneously filed with the USDA Office of the Administrative Law Judges, providing the following:

(i) The factual basis for the decision to seek a penalty;

(ii) The applicable civil money penalty statute;

(iii) The amount of penalty sought;

(iv) The right to submit a response in writing, within 15 days of receipt of the complaint, requesting a hearing on any material fact in the complaint, or on the appropriateness of the penalty sought;

(v) The address to which a response must be sent;

(vi) That the failure to submit a response may result in the imposition of the penalty in the amount sought.

(3) The complaint shall be served upon the Respondent by first class mail or personal delivery.

(g) *Response to the complaint.* (1) In any case in which the Respondent has requested a hearing, the Respondent shall serve upon the Agency Official and file with the USDA Office of Administrative Law Judges a written answer to the complaint within 30 days of receipt of the complaint, unless such time is extended by the administrative law judge for good cause. The answer shall include the admission or denial of each allegation of liability made in the complaint; any defense on which the Respondent intends to rely; any reasons why the civil money penalty should be less than the amount sought in the complaint, based on the factors listed in (a)(2); and the name, address, and telephone number of the person who will act as the Respondent's representative, if any.

(2) If no response is submitted, then the Agency Official may file a motion for default judgment, together with a copy of the complaint, in accordance with subpart L of 7 CFR part 1.

(h) Hearings under this part shall be conducted in accordance with the procedures applicable to hearings in accordance with subpart L of part 1 of title 7.

(i) Settlement of a civil money penalty action. The Agency Official is authorized to settle civil money penalty actions that may be brought under this section.

(j) *Remedies for noncompliance.*—(1) *Judicial intervention.* If a Respondent fails to comply with a final determination of the Agency imposing a civil monetary penalty, the Agency may request the Attorney General of the United States to bring an action in an

appropriate District Court to obtain a monetary judgment against the Respondent and such other relief as may be available. The monetary judgment may, in the court's discretion, include attorney's fees and other expenses incurred by the United States in connection with the action.

(2) Reviewability of determination. In an action under this paragraph, the validity and appropriateness of a determination by the Agency imposing the penalty shall not be subject to review.

(k) *Application of other remedies.* A civil money penalty may be imposed in addition to other administrative sanctions or any other civil remedy or criminal penalty.

Dated: November 15, 2012.

Tammye Trevino,

Administrator, Rural Housing Service.

[FR Doc. 2012–31712 Filed 1–3–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2012–BT–TP–0024]

RIN 1904–AC79

Energy Conservation Program for Consumer Products: Test Procedure for Residential Furnaces and Boilers

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

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is initiating a rulemaking and data collection process to consider amendments to DOE's test procedure for residential furnaces and boilers. Because DOE has recently completed a test procedure rulemaking for the standby mode and off mode energy consumption of these products, the primary focus of this rulemaking will be on active mode operation. This rulemaking is intended to fulfill DOE's statutory obligation to review its test procedures for covered products at least once every seven years. To inform interested parties and to facilitate the process, DOE has gathered data and has identified several issues that might warrant modifications to the currently applicable test procedures, including topics on which DOE is particularly interested in receiving comment. In overview, the issues outlined in this document mainly concern reducing the test burden, test conditions impacting the annual fuel utilization efficiency (AFUE) metric, test conditions impacting non-AFUE efficiency parameters, the performance test for automatic means in boilers, harmonization of standards, alternative methods for furnace/boiler efficiency determination, and scope. These topics (and others which commenters identify) are ones which DOE anticipates may lead to proposed test procedure amendments in a subsequent notice of proposed rulemaking (NOPR). DOE welcomes written comments from the public on any subject related to the test procedures for residential furnaces and boilers, including topics not specifically raised in this RFI.

DATES: Written comments and information are requested on or before February 19, 2013.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2011–BT–TP–0024 and/or RIN 1904–AC79, by any of the following methods:

- *Email: Res-Furnaces-Boilers-2012-TP-0024@ee.doe.gov.* Include EERE–2012–BT–TP–0024 and/or RIN 1904–AC79 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, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Instructions: All submissions received must include the agency name and docket number 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: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to Mr. Mohammed Khan, 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) 586–7892. Email: *residential_furnaces_and_boilers@ee.doe.gov.*

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

For information on how to submit or review public comments, contact Ms. Brenda Edwards, 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) 586–2945. Email: *Brend.Edwards@ee.doe.gov.*

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I. Authority and Background

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] including residential furnaces and boilers. (42 U.S.C. 6291(1)–(2) and 6292(a)(5))

[1] This part was originally titled Part B. It was redesignated Part A in the United States Code for editorial reasons.

[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).

Under the Act, this program consists essentially of four parts: (1) Testing; (2) labeling; (3) establishing Federal energy conservation standards; and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as both the basis for certifying to DOE that their products comply with applicable energy conservation standards adopted pursuant to EPCA, and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards adopted under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth criteria and procedures that DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine the extent to which the proposed test procedure would alter the product's measured energy efficiency. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

Further, the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that at least once every 7 years, DOE must review test procedures for all covered products and either amend the test procedures (if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3)) or publish notice in the **Federal Register** of any determination not to amend a test procedure. (42 U.S.C. 6293(b)(1)(A)) Under this requirement, DOE must review the test procedures for the various types of residential furnace and boiler products not later than December 19, 2014 (*i.e.,* 7 years after the enactment of EISA 2007). Thus, the final rule resulting from this rulemaking will satisfy the requirement to review the test procedures for furnaces and boilers within seven years of the enactment of EPCA.

DOE's test procedure for residential furnaces and boilers is found at 10 CFR 430.23(n) and 10 CFR part 430, subpart B, appendix N, *Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers.* DOE established its test procedures for furnaces and boilers in a final rule published in the **Federal Register** on May 12, 1997. 62 FR 26140. This procedure establishes a means for determining annual energy efficiency (AFUE) and annual energy consumption of gas-fired, oil-fired, and electric furnaces and boilers.

In addition to the test procedure review provision discussed above, EISA 2007 also amended EPCA to require DOE to amend its test procedures for all covered products to include measurement of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Consequently, DOE amended its test procedures for residential furnaces and boilers to include provisions for measuring the standby mode and off mode energy consumption of those products. DOE published a final rule in the **Federal Register** on October 20, 2010, which updated the DOE test procedures for residential furnaces and boilers to address the standby mode and off mode test procedure requirements under EPCA. 75 FR 64621. Since that time, DOE published a notice of proposed rulemaking (NOPR) in the **Federal Register** on September 13, 2011, which calls for the use of the second edition of International Electrotechnical Commission (IEC) Standard 62301, ''Household Electrical Appliances—Measurement of standby power,'' in lieu of the first edition incorporated by reference in the earlier final rule, as well as providing guidance on rounding and sampling. 76 FR 56339. On December 31, 2012, DOE published in the **Federal Register** its second test procedure final rule for furnaces and boilers related to standby mode and off mode, which incorporated by reference IEC Standards 62301 (Second Edition) and provided related rounding and sampling guidance. However, that rulemaking was limited to test procedure updates to address the above-referenced standby mode and off mode requirements, and consequently, it has not considered several other potential non-standby mode/off mode issues in DOE's existing test procedures for residential furnaces and boilers which DOE plans to address in this rulemaking. The potential issues that DOE has preliminarily identified and plans to address in this rulemaking are discussed in detail below in section II of this RFI.

In support of its test procedure rulemaking, DOE conducts in-depth technical analyses of publicly-available test standards and other relevant information. DOE continually seeks data and public input to improve its testing methodologies to more accurately reflect consumer use and to produce repeatable results. In general, DOE is requesting comment and supporting data regarding representative and repeatable methods for measuring the energy use of residential furnaces and boilers. Additionally, DOE seeks comment and information on the specific topics below.

II. Discussion

A. Reducing Test Burden

DOE plans to identify available opportunities to potentially reduce testing burden by simplifying appropriate parts of the residential furnaces and boilers test procedure. Knowledge of a unit's physical characteristics may make it possible to reliably predict certain performance parameters without conducting testing. If so, replacing certain burdensome tests with default factors could significantly reduce the testing burden (time to conduct a test or cost of testing) without sacrificing the validity of the test results. Of course, manufacturers would retain the option to conduct actual testing, rather than rely on default values.

DOE plans to also reassess existing default factors in the test procedure, many of which were created years ago and might no longer be relevant for some of today's product designs. For example, the existing off-cycle draft factor for flue gas flow (D_F) default value of 0.4 for induced draft products was established for clamshell heat exchangers intended for use in gravity vented units. Today's products are designed with more restrictive heat exchangers (tubes and small formed sections) and are likely to result in draft factors less than 0.4. Regarding default factors, DOE requests input and comments on:

(1) Defining default draft factors [3] for each product with different physical characteristics;

[3] Identified default draft factors in DOE's residential furnaces and boilers test procedure include the off-cycle draft factor for flue gas flow (D_F), the off-cycle draft factor for stack gas flow (D_S), the off-cycle draft factor for stack gas flow without a stack damper ($D_S{}^O$), and the power burner draft

(2) Defining default jacket loss [4] factors for each product type;

(3) The appropriateness of replacing the ''heat up'' and ''cool down'' tests with default seasonal factors to account for the year-round performance of the equipment. If so, should these factors be based on physical characteristics of the equipment being evaluated, and should the use of default factors be optional or mandatory? Also, DOE is requesting data about the effect of the heat up and cool down test result measurements on AFUE calculation, the range and repeatability of the test results, and the degree to which such results are correlated with physical attributes of the tested product.

(4) Simplifying the calculation procedure for determining the burner cycling and draft losses used to compute seasonal efficiency without losing important insight about a product's relative energy performance; and

(5) Other default values that need updating or parameters currently measured that could be replaced with default values.

B. Test Conditions Impacting Energy Efficiency (AFUE) Performance

DOE is interested in receiving comments about improving the test procedure's effectiveness in quantifying energy efficiency performance under typical field conditions. DOE has identified opportunities to reduce variability, eliminate ambiguity, and address discrepancies between the test procedure and actual field conditions. On this topic, DOE seeks input on the following issues:

(1) The DOE test procedure incorporates by reference the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 103–1993.[5] In 2007, ASHRAE published a revised version of Standard 103 (ASHRAE Standard 103–2007), which was updated to reflect improvements and changes in equipment design that were not adequately covered by the previous version of the standard. In particular, attention was given to the modern classes of two-stage and modulating equipment that have come on the market, as well as equipment whose performance is affected by post purge of the combustion chamber. Greater understanding and clarity regarding energy losses were also incorporated into the updated ASHRAE standard. Finally, changes in nomenclature and definitions were included to clarify meaning within the standard, a need reflected by questions and issues posed to ASHRAE committee members over the past 10 years. Furthermore, editorially, the errata from the previous version were incorporated into this version. DOE plans on updating its references to the current ASHRAE Standard 103–2007 [6] and seeks comments on which sections of ASHRAE 103–2007 should be included in the DOE test procedure.

(2) DOE plans to review the tolerance ranges for measuring important variables such as fuel calorific value, weight of condensate, water flow and temperature, voltage, and flue gas composition. DOE seeks comment as to whether the existing tolerance ranges for measuring variables in the test procedure are acceptable or whether DOE should define different methods of measuring and recording such variables.

(3) DOE plans to review the statistical variability encountered during testing in important variables such as firing rate, heating media temperatures and flow rates, and ambient air temperature. For example, the firing rate is generally to be set and held to within ±2% of the nameplate rating. DOE seeks comment regarding whether this range should be narrowed.

(4) Room ambient air temperatures are currently allowed to vary widely. Under the DOE test procedure, the room temperature is allowed to be between 65 °F and 100 °F, except for condensing furnaces and boilers, where the room temperature shall not exceed 85 °F. DOE plans to review whether it is appropriate to tighten the allowable room air temperature range. DOE seeks comment as to whether it should tighten the allowable room air temperature range.

(5) Currently, a minimum draft factor of 0.05 can be applied to products with restricted flueways without providing a list of qualifications or instructions as to how to verify that the units are designed with no measurable airflow through the combustion chamber and heat exchanger during the burner off-period. DOE seeks comment as to whether and under what conditions, a minimum draft factor should be used for products with restricted flueways and how the conditions could be verified if questions arose.

(6) DOE requires all non-weatherized boilers to be rated as indoor equipment (see 10 CFR part 430, subpart B, appendix N, section 10.1). This implies that direct vent boilers that would normally meet the definition of System 9 or System 10 should instead be defined as one of the other System numbers.[7] DOE plans to review whether it is appropriate for direct vent boilers to be calculated according to System 3 or alternatively according to System 9 or 10, but with jacket losses excluded (*i.e.,* L_J=0). DOE seeks input regarding how direct vent boilers should be tested.

(7) DOE plans to review the current value of the oversize factor [8] (0.7) to investigate whether current field installations can be better approximated, for both furnaces and boilers. DOE seeks comment regarding an appropriate value for the oversize factor.

(8) Currently, the DOE test procedure provides that water supply temperature must be between 120 °F and 124 °F for non-condensing hot water boilers and 120 °F (±2 °F) for condensing hot water boilers. DOE plans to review the value for the water supply temperature for non-condensing and condensing boilers. DOE seeks comment on the appropriate water supply temperature for measuring the performance of non-condensing and condensing boilers. Should DOE change the water temperatures for condensing boilers to reflect the lower temperatures encountered in low-temperature radiant installations?

(9) The current DOE test procedure does not specify that the tested equipment is set up according to

factor (D_P). D_F is the ratio of gas mass flow rate through the flue during the off-cycle to the gas mass flow rate through the flue during the on-cycle at identical temperatures. D_P is the ratio of the rate of flue gas mass flow through the furnace during the off-period to the rate of flue gas mass flow through the furnace during the on-period.

[4] Identified default jacket loss factors in DOE's residential furnaces and boilers test procedure include jacket loss factor (C_J) and jacket loss (L_J), which measure the losses resulting from heat escaping the furnace or boiler jacket.

[5] American Society of Heating Refrigerating and Air-Conditioning Engineers Inc., *ASHRAE Standard: Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers* (1993) Report No. ANSI/ASHRAE 103–1993.

[6] American Society of Heating Refrigerating and Air-Conditioning Engineers Inc., *ASHRAE Standard: Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers* (2007) Report No. ANSI/ASHRAE 103–2007.

[7] System numbers are used in the ASHRAE 103 test procedure to categorize the different types of furnaces and boilers to be tested. ''System 9'' or ''System10'' refer to furnaces or boilers that are outdoor, direct vent, or isolated combustion systems. ''System 3'' refers to furnaces or boilers that can use indoor combustion air and have direct exhaust.

[8] ''Oversize factor'' accounts for the national average oversizing of equipment that occurs when a heating equipment is sized to satisfy more than the heating load of the household. This is typically done to size the equipment so that it is able to satisfy the days in which the house heating requirements might be exceeded and/or to take into account uncertainties regarding house heating load. For example, a 0.7 oversize factor is equivalent to 30-percent oversizing of the heating equipment (in other words, 30 percent greater input capacity than is required).

recommended field settings as defined in the product's installation and operation manual. This potentially allows the unit to be tested under conditions that are different from the field or may not be recommended for safety reasons. Examples of such test conditions include a different flue CO_2 percentage or reduced input rate from the recommended field settings. DOE plans to review the use of manufacturer-recommended values in testing, such as the minimum firing rate for testing a unit equipped with manually-adjustable controls (see ASHRAE 103–2007, section 8.4.1.1.2) and target flue gas CO_2 levels. Should DOE change the test procedure to specify that the tested equipment is set up according to recommended field settings as defined in the product's installation and operation manual?

(10) AFUE ratings are typically reported in manufacturer product literature and on directories of certified products to the nearest 0.1, but this is neither specified in the DOE test procedure nor explicitly required by the Federal Trade Commission (FTC). Instead, DOE's test procedure specifies that the AFUE rating should be rounded to the nearest whole percentage point (see 10 CFR 430.23(n)(2)). DOE plans to specify the requisite number of significant digits as part of this test procedure rulemaking. DOE solicits input on how much precision is statistically possible.

(11) Vent stack requirements differ between ANSI Z21.13 [9] or ANSI Z21.47 [10] and the DOE test procedure. DOE plans to review the difference in efficiency rating attributable to the differences in vent stack configuration between the DOE test procedure and ANSI Z21.13 or ANSI Z21.47. DOE seeks comment on whether it should consider adopting the same vent stack requirements as set forth in ANSI Z21.13 or ANSI Z21.47.

C. Test Conditions Impacting Non-AFUE Efficiency Parameters

DOE plans to improve the ability of the test procedure to measure non-AFUE energy efficiency parameters under typical field conditions. Regarding this topic, DOE seeks input on:

(1) The boiler test procedure measures only the power supplied to the power burner motor, the ignition device, and the circulating pump (*see* 10 CFR part 430, subpart B, appendix N, section 10.2.1). Some boilers are equipped with an internal pump used to maintain a minimum flow rate through the heat exchanger that does not function as a system circulating pump. DOE seeks comment on whether the boiler average annual auxiliary electrical energy consumption (E_{AE}) calculations should include one system circulating pump and an additional pump (if present) that circulates water during the operation of the burner.

(2) Modulating power burners are often equipped with variable speed motors. The efficiency of the motor/blower combination changes with the firing rate. The same may be true for circulating pumps. Currently, DOE's test procedure assumes a fixed motor efficiency. For equipment with modulating power burners, using a fixed motor efficiency would produce inaccurate electricity consumption estimates, since the motor efficiency varies at the different firing rates. DOE plans to incorporate a method for part-load efficiency into its electricity consumption calculations for modulating equipment. DOE requests input regarding the appropriateness of incorporating a method for part-load efficiency into its electricity consumption calculations and input on what method DOE should use.

(3) The current DOE test procedure includes power consumed by the ignition device, circulating pump, and power burner motors, but it ignores other devices that use power during the active mode (*e.g.,* gas valve and safety and operating controls). DOE plans to consider including any electrical power consumption not already measured during the active mode. DOE seeks comment regarding how to address any electrical power consumption not already measured during the active mode.

(4) Historical energy use data show that national average house heating loads have been changing because of increased household square footage, improved building shell efficiency, changes in the distribution of where this equipment is installed, and changes in average weather conditions. DOE plans to review the parameters to calculate the burner operating hours in section 10.2.1 of the DOE test procedure (*i.e.,* national average heating load hours and the adjustment factor). DOE seeks comment regarding what national average values should be used to calculate burner operating hours.

D. Performance Test for Automatic Means in Boilers

In 2008, DOE published a technical amendment to the 2007 furnace and boiler final rule (72 FR 65136 (Nov. 19, 2007)) to add a number of design requirements set forth in EISA 2007. 73 FR 43611 (July 28, 2008). These requirements prohibit constant-burning pilot lights for gas-fired hot water boilers and gas-fired steam boilers, and require an automatic means for adjusting the water temperature for gas-fired hot water boilers, oil-fired hot water boilers, and electric hot water boilers. The automatic means for adjusting water temperature must automatically adjust the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

While these requirements do not impact the AFUE rating, DOE is considering including in this test procedure a performance test to demonstrate that the ''automatic means'' functions as required. While this test would not need to be performed by manufacturers to certify compliance with the existing design standards, DOE would use this test to verify compliance with the design standards should a question of compliance arise. DOE invites input on:

(1) Any principles or tests currently used, or being considered for use, to qualify the operation of the automatic means.

(2) Required inputs and types of technologies needed to project changes in demand and the relationships between these inputs/technologies and supply temperature or pump/burner operation.

(3) Suggestions about the measurements that should be included in the test.

E. Harmonization of Standards

DOE invites input on other national or international test procedures commonly used to rate residential furnace and boiler energy efficiency, including the advantages and disadvantages of those test procedures compared to the current DOE test procedure. In particular, DOE seeks input on:

(1) Differences in efficiency performance caused by differences in minimum static pressure requirements in ASHRAE 103–2007 [11] (Table IV)

[9] American National Standards Institute, *American National Standard/CSA Standard for Gas-Fired Low Pressure Steam and Hot Water Boilers* (2010) Report No. ANSI Z21.13–2010, CSA 4.9–2010.

[10] American National Standards Institute, *American National Standard/CSA Standard for Gas-Fired Central Furnaces* (2006) Report No. ANSI Z21.47–2006, CSA 2.3–2006.

[11] American Society of Heating Refrigerating and Air-Conditioning Engineers Inc., *ASHRAE Standard: Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers* (2007) Report No. ANSI/ASHRAE 103–2007.

compared to DOE's proposed furnace fan test procedure,[12] and drawbacks or advantages associated with harmonizing the requirements.

(2) Any other national or international test procedures that could be considered for this cycle of test procedure amendments.

F. Alternative Methods for Furnace/ Boiler Efficiency Determination

DOE is aware of alternative methods to measure the heating efficiency (AFUE) of residential furnaces and boilers. In particular, DOE seeks input on:

(1) Procedure developed by Brookhaven National Laboratory that uses linear input/output, a relationship between fuel input and heat output that can be used to determine the efficiency of residential boilers.[13]

(2) Any other methods that could be considered for this test procedure update.

G. Scope

A combination space-heating and water-heating appliance is defined in the applicable industry test standard as a unit that is designed to provide space heating and water heating from a single primary energy source.[14] The two major types of combination appliances are: (1) Boiler/tankless coil or boiler/indirect tank combination units, whose primary function is space heating, and (2) water heater/fan-coil combination units, whose primary function is domestic water heating. Currently, there is no DOE test procedure for determining the combined efficiency of the combination products that can be used to supply domestic hot water in addition to its space-heating function. However, there are DOE test procedures for the individual components (boiler or water heater) of a combined appliance which provides for testing and efficiency ratings for the primary function—space heating or domestic water heating.

DOE's test procedure for residential furnace and boilers, which is set forth at 10 CFR 430.23(n) and 10 CFR part 430, subpart B, appendix N, addresses central gas-fired, electric, and oil-fired furnaces with inputs less than 225,000 Btu/h and gas-fired, electric, and oil-fired boilers with inputs less than 300,000 Btu/h. DOE's test procedure for residential water heaters, which is set forth at 10 CFR 430.23(e) and 10 CFR part 430, subpart B, appendix E, addresses gas-fired, electric, and oil-fired storage-type water heaters with storage greater than 20 gallons and gas-fired and electric instantaneous-type water heaters with storage volume less than 2 gallons. ASHRAE has an existing test procedure, ANSI/ASHRAE 124–2007 (Methods of Testing for Rating Combination Space-Heating and Water-Heating Appliances), which provides a method of test to rate the performance of a combination space-heating and water-heating appliance.[15] For this rulemaking, DOE is considering an expansion of the scope of the test procedure to include definitions and test methods for these types of combination products. DOE seeks comment on:

(1) What types of combination equipment are there in this market?

(2) How should DOE address the measurement of energy use by such combined products (keeping in mind the potential for active mode, standby mode, and off mode operation)?

H. Standby Mode and Off Mode

On December 31, 2012, DOE published a test procedure final rule in the **Federal Register** for furnaces and boilers related to standby mode and off mode energy consumption. However, given the broad scope of this 7-year-lookback test procedure rulemaking, comments are also welcome on DOE's test procedure provisions for determining standby mode and off mode energy use.

I. Other Issues

DOE seeks comments on other relevant issues that would affect the test procedures for residential furnaces and boilers. Although DOE has attempted to identify those portions of the test procedure where it believes amendments may be warranted, interested parties are welcome to provide comments on any aspect of the test procedure, including updates of referenced standards, as part of this comprehensive 7-year-review process.

III. Public Participation

DOE invites all interested parties to submit in writing by February 19, 2013, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for residential furnaces and boilers.

After the close of the comment period, DOE will begin collecting data, conducting the analyses, and reviewing the public comments. These actions will be taken to aid in the development of a test procedure NOPR for residential furnaces and boilers.

DOE considers public participation to be a very important part of the process for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period at 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.*

Issued in Washington, DC, on December 28, 2012.

Kathleen B. Hogan,

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

[FR Doc. 2012–31700 Filed 1–3–13; 8:45 am]

BILLING CODE 6450–01–P

[12] *See* 77 FR 28674 (May 15, 2012).

[13] Butcher, Thomas, *Technical Note: Performance of Combination Hydronic Systems,* ASHRAE Journal (December 2011).

[14] American Society of Heating Refrigerating and Air Conditioning Engineers, ANSI/ASHRAE 124–2007: *Methods of Testing for Rating Combination Space-Heating and Water-Heating Appliances* (2007).

[15] American Society of Heating Refrigerating and Air Conditioning Engineers, ANSI/ASHRAE 124–2007: *Methods of Testing for Rating Combination Space-Heating and Water-Heating Appliances* (2007).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 380

[Docket No. RM12–11–000]

Revisions to the Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Natural Gas Act (NGA) requires that prior to the construction or extension of any natural gas facilities, the Federal Energy Regulatory Commission (Commission) must issue a certificate that authorizes a natural gas company to undertake the proposed activity. However, under the Commission's regulations, the construction of auxiliary installations or replacement facilities, while subject to the Commission's NGA jurisdiction, are not treated as the construction or extension of facilities, and thus do not require certificate authorization. The Commission proposes to revise its regulations to clarify that all activities

related to the construction of auxiliary installations and replacement facilities must take place within a company's certificated right-of-way using previously approved work spaces. In addition, the Commission proposes to add landowner notification requirements for auxiliary installations, replacement facilities, and other jurisdictional activities performed within the right-of-way.

DATES: Comments are due March 5, 2013.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

• *Electronic Filing through: http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

141 FERC ¶ 61,228

December 20, 2012.

1. On April 2, 2012, the Interstate Natural Gas Association of America (INGAA) requested clarification of section 2.55 of the Commission's regulations,[1] which defines facilities that may be added, altered, or replaced under a company's existing Natural Gas Act (NGA) section 7(c) certificate authorization, without the need for any additional authorization.[2] INGAA states that in discussions with pipelines and in industry meetings, Commission staff has expressed the position that under section 2.55(a), in undertaking auxiliary installations, companies must stay within their existing rights-of-way, with construction activities limited to the work space that was previously used. INGAA disagrees with this restriction, arguing that in the past, auxiliary installation activities have not been constrained in this way; therefore, to now impose right-of-way and work space constraints would amount to rulemaking without the opportunity for notice and comment, contrary to the requirements of the Administrative Procedure Act (APA).[3] Pursuant to section 385.207(a)(4) of the Commission's Rules of Practice and Procedure, INGAA requests the Commission affirm that no right-of-way or work space limitations apply to auxiliary installations under section 2.55(a).

I. Background

2. Section 7(c)(1)(A) of the NGA requires a natural gas company to have certificate authorization for the ''construction or extension of any facilities.'' [4] In order to ''avoid the filing and consideration of unnecessary applications for certificates,'' [5] section 2.55 of the Commission's regulations establishes that for the purposes of NGA section 7(c), ''the word *facilities* as used therein shall be interpreted to exclude'' auxiliary installations and replacement facilities.[6] Thus, although auxiliary installations and replacement facilities remain subject to the Commission's NGA jurisdiction, they do not require section 7(c) certificate authorization. Section 2.55 was implemented to reduce the burden that would otherwise be imposed on companies and the Commission by requiring a full, formal case-specific section 7 proceeding for minor, routine modifications to an existing or proposed interstate transportation system.[7]

3. Section 2.55(a) excludes facilities which are ''merely auxiliary or appurtenant to an authorized or proposed pipeline transmission system'' and are installed ''only for the purpose of obtaining more efficient or more economical operation of the authorized or proposed transmission facilities,'' such as ''[v]alves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.''

4. Originally, natural gas companies were not required to notify the Commission in advance of constructing auxiliary installations. However, in 1999 the Commission expressed the concern that adding auxiliary facilities to an authorized, but not yet completed project, without notifying the Commission of the auxiliary facilities, would not afford the Commission the opportunity to assess the auxiliary facilities' environmental impacts, impacts which, when combined with the impacts of the authorized facilities, could potentially alter the Commission's conclusions regarding the overall environmental impact of the pending project. As a result, Order No. 603 [8] revised section 2.55(a)(2) to require that any natural gas company constructing auxiliary installations on or at the same time as the construction of a certificated project must provide a description of the auxiliary facility and its location to the Commission 30 days in advance of its installation.[9] Likewise, if any natural gas company plans to construct an auxiliary facility in conjunction with a proposed project, the auxiliary facility must be described in the application's environmental report, as required by section 380.12 of the Commission's regulations, or in a supplemental filing while the application is pending.[10] The Commission explained these advance notification requirements are necessary because certain aboveground auxiliary installations involve substantially different environmental impacts than a

[1] 18 CFR 2.55 (2012).

[2] On May 2, 2012, MidAmerican Energy Pipeline Group (which includes Kern River Gas Transmission Company and Northern Natural Gas Company) filed a motion to intervene and comments in support of INGAA's petition.

[3] 5 U.S.C. 553 (2006).

[4] 15 U.S.C. 717f(c)(1)(A) (2006).

[5] *Filing of Applications for Certificates of Public Convenience and Necessity, Notice of Proposed Rulemaking,* 13 FR 6253, at 6254 (October 23, 1948).

[6] 18 CFR 2.55 (2012).

[7] Section 2.55 went into effect in 1948, prior to (and presaging) the Commission's blanket certificate program, which went into effect in 1982.

[8] *Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act,* Order No. 603, 64 FR 26572, at 26574 (May 14, 1999), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,073 (1999), *order on reh'g,* Order No. 603–A, 64 FR 54522 (October 7, 1999), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,081 (1999), *order on reh'g,* Order No. 603–B, 65 FR 11462 (March 3, 2000), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 61,094 (2000).

[9] *See* 18 CFR 2.55(a)(2)(ii) (2012).

[10] *See* 18 CFR 2.55(a)(2)(iii) (2012).

pipeline or storage facility, and these different impacts could be of concern to affected landowners and the Commission.[11]

5. Section 2.55(b) permits natural gas companies to replace physically deteriorated or obsolete facilities, including replacing existing facilities that have or will soon be physically deteriorated or obsolete, so long as the replacement will not result in a reduction or abandonment of service and will have a substantially equivalent designed delivery capacity.[12] Larger replacements require that a description of the project be submitted to the Commission 30 days in advance of initiating construction, while smaller replacements may go forward without any advance notice.[13] Such replacements may go forward without case-specific or blanket certificate authorization.

6. In Order No. 603, the Commission specified that all replacement facilities must be constructed in the certificated right-of-way using the same temporary work space that was used to construct the existing facilities.[14] The Commission reasoned that section 2.55(b) replacements ''should only involve basic maintenance or repair to relatively minor facilities,'' where it has been determined that no significant impact to the environment would occur.[15] The Commission suggested that if a natural gas company wanted to use land outside of the original right-of-way, it rely on its blanket certificate authority to do so.[16]

II. Proposed Regulatory Revisions

7. As discussed in more detail below, in response to the concerns expressed by INGAA in its petition, the Commission now proposes to revise section 2.55(a) covering auxiliary installations to clarify that auxiliary facilities must be located within the certificated permanent right-of-way or authorized facility site and must use the same temporary work space that was used to construct the existing facilities. This is consistent with the Commission's 2.55(b) provisions (as adopted in Order No. 603), which specify that replacement facilities ''will be located in the same right-of-way or on the same site as the facilities being replaced, and will be constructed using the temporary work space used to construct the original facility.'' [17] In restricting section 2.55 activities to the right-of-way and work space authorized in conjunction with the existing facilities, we are doing no more than reiterating that the limitations imposed by the Commission in approving the facilities continue to apply to auxiliary and replacement activities associated with those facilities. This ensures that the environmental and landowner impacts attributable to auxiliary and replacement activities conducted under this regulation without prior Commission authorization remain within the scope of impacts studied and addressed in our review and authorization of the underlying facilities.

8. With respect to this section 2.55(b)(1)(ii) requirement, we propose to substitute ''existing facility'' for ''original facility.'' We do so in the recognition that over time, the original facility may have undergone modifications, such as auxiliary installations, replacements, or emergency repairs. More significant modifications to an original facility may have been undertaken pursuant to blanket certificate authority, in particular where a company has relied on our Part 157, Subpart F, provisions to establish a new permanent right-of-way and new temporary work spaces. Further, we note that this proposed change will render existing section 2.55(b)(1)(ii) consistent with existing section 2.55(a)(2)(i) and section 2.55(b)(1) and proposed section 2.55(a)(1)(i), all of which refer to ''existing'' rather than ''original'' facilities.

9. Commission staff has also received numerous requests from landowners, asking that companies be required to notify landowners prior to entering and undertaking activities on their property. In response, the Commission proposes to add a landowner notification requirement for construction activities conducted under section 2.55 for auxiliary installations and replacement facilities, as well as for any jurisdictional activities undertaken to meet the siting and maintenance requirements of section 380.15 of the Commission's regulations. To guarantee that landowners are notified in advance of any construction or maintenance activity planned for their property, under proposed sections 2.55(c) and 380.15(c), natural gas companies will have to notify affected landowners at least 10 days prior to commencing any such activity.

A. Clarifying and Updating Regulations To Conform to Commission Practice and Policy

1. Comments

10. INGAA contends that during discussions with natural gas companies and in industry meetings, Commission staff has stated that under section 2.55(a), auxiliary installations are limited to activities that take place within existing rights-of-way where the original work space is used. INGAA maintains that Commission staff's position substantially changes the meaning of section 2.55(a), as it would subject auxiliary installations to the same right-of-way and work space requirements that apply to replacement facilities under section 2.55(b)(ii). INGAA stresses that section 2.55(a) does not have similar right-of-way and work space constraints.

11. INGAA argues that, historically, section 2.55(a) auxiliary installations and section 2.55(b) replacement facilities have received different treatment.[18] INGAA states that auxiliary installations traditionally have not been limited to existing rights-of-way or original work spaces. INGAA notes that

[11] *Revisions to Regulations Governing NGPA Section 311 Construction and the Replacement of Facilities,* Order No. 544, 57 FR 46487 (October 9, 1992), FERC Stats. & Regs., Regulations Preambles January 1991—June 1996 ¶ 31,951 (1992), *order on reh'g,* Order No. 544–A, 58 FR 57730 (October 27, 1993), FERC Stats. & Regs., Regulations Preambles January 1991—June 1996 ¶ 30,983 (1993).

[12] 18 CFR 2.55(b) (2012).

[13] Of course all jurisdictional activities—whether subject to section 2.55 or section 7(c)—are subject to all other applicable federal, state, and local requirements.

[14] Order No. 603, FERC Stats. & Regs. ¶ 31,073, 64 FR 26572 at 26574–76 and 18 CFR 2.55(b) (2012).

[15] Order No. 603–A, FERC Stats. & Regs. ¶ 31,081, 64 FR 54522 at 54524.

[16] Order No. 603, FERC Stats. & Regs. ¶ 31,073, 64 FR 26572 at 26580.

[17] 18 CFR 2.55(b)(1)(ii) (2012). *See also Arkla Energy Resources Company,* 67 FERC ¶ 61,173, at 61,516 (1994) (*Arkla*), in which the Commission, prior to Order No. 603's revision of the 2.55(b)(1)(ii) regulations to specify that replacement facilities must be in the same right-of-way, explained that although the then-applicable regulations and case law did not explicitly restrict replacement facilities to the existing right-of-way:

> [R]eplacement facilities must be constructed within the existing right-of-way. The reason is simple. The authority to replace a facility and to establish a right-of-way should be limited by the terms and locations delineated in the original construction certificate. Thus, a certificate holder that later establishes a new right-of-way for purposes of [a section 2.55(b)] replacement engages in an unauthorized activity which is outside the parameters of the original certificate order.

[18] INGAA sites to two letters from Commission staff, one stating that replacement facilities outside of the right-of-way must be initiated under a case-specific NGA section 7 certificate proceeding, and the other stating that auxiliary installations constructed outside of the existing right-of-way do not need additional Commission authorization. *See* INGAA's April 2, 2012 filing at nn. 18 &19. While Commission staff appropriately stated that replacement facility construction cannot occur outside of the existing right-of-way or previously used work space, staff was incorrect in stating that auxiliary installations outside of the right-of-way are permissible.

while Order No. 603 [19] specifically stated that replacement facilities must be constructed within the existing right-of-way, the Commission was silent on applying that same requirement to auxiliary installations.

12. INGAA states that under Commission staff's current position, an auxiliary facility, no matter how small and environmentally insignificant, which would extend beyond the existing right-of-way or original work space would require NGA section 7(c) certificate authorization. INGAA contrasts this with a replacement project that no matter how large and environmentally adverse, could proceed under blanket certificate authority, provided it meets the Part 157, Subpart F, regulatory requirements. INGAA characterizes this treatment as nonsensical. By adding a right-of-way or work space limitation to section 2.55(a) auxiliary installations, INGAA contends the Commission would be imposing a substantial burden on companies seeking to maintain their jurisdictional facilities and services.

2. Commission Response

13. Section 2.55 permits natural gas companies to make certain routine modifications and additions to their jurisdictional facilities without the need to invoke case-specific or blanket section 7(c) certificate authorization. However, as the Commission has previously stated, ''[a]cquiring additional land for construction activities is a section 7 activity and, therefore, does not qualify for the section 2.55 exemption.'' [20] Consequently, the Commission proposes to amend section 2.55(a) to clarify that auxiliary installations must be constructed within the certificated permanent right-of-way or authorized facility site and must use the same temporary work space used to construct the existing facility.

14. All section 2.55 facilities are fully jurisdictional. Because the originally certificated facilities had undergone an environmental review, the Commission determined there was no need to subject the comparatively minor modifications to these facilities permitted under section 2.55 to the same scrutiny.[21] Requiring that auxiliary installations must conform to the originally specified certificate conditions with respect to construction and location is consistent with the Commission's treatment of replacement facilities under section 2.55(b).[22]

15. In Order No. 603, the Commission added Appendix A to Part 2 to provide guidance for the construction of replacement facilities. Order No. 603 did not discuss auxiliary facilities, as no party raised any issue regarding them. Thus, the Commission saw no need to discuss whether the construction and location of auxiliary facilities must fall within the footprint of the existing facilities. Nothing in Order No. 603 evinced an intent to permit auxiliary facilities outside of previously approved boundaries, i.e., outside of an area that had been previously studied when the Commission considered the environmental impacts of the originally proposed project in fulfillment of its National Environmental Policy Act (NEPA) obligations.[23] We noted that section 2.55(a) auxiliary facilities, like section 2.55(b) replacement facilities, should only include basic maintenance activities and the addition of minor facilities so as to ensure that all section 2.55 activities will have no significant adverse environmental or economic impacts.[24]

16. The authority to replace, construct, or maintain natural gas facilities is limited by the terms and locations delineated in the original certificate. These terms include the project's approved plans and procedures, e.g., the Commission staff's Upland Erosion Control Revegetation and Maintenance Plan and Wetland and Waterbody Construction and Mitigation Procedures, as required by section 380.12 of the Commission's regulations, as well as any conditions relating to construction methods and restoration obligations. So long as an auxiliary or replacement facility will be located within an existing right-of-way, and make use of the previously used work space, and comply with all the conditions of the original certificate, a natural gas company can rely on section 2.55 for its construction activities. However, any activity that would require a new permanent right-of-way or new temporary work space, i.e., any activity that would require any new property rights, would be beyond the scope of section 2.55, and a company would require an alternative source of authorization.[25] For activities that cannot qualify under section 2.55, a company may seek case-specific certificate authorization or rely on its blanket authority.[26]

B. Environmental Effects of Auxiliary Installations

1. Comments

17. INGAA states that auxiliary installations are smaller by nature and have limited environmental and other impacts when compared to replacement facilities, since replacements can involve the removal and replacement of extensive mainline facilities and significant adverse effects on the environment.

18. INGAA contends that implementing right-of-way and work space limitations for auxiliary installations would eliminate the ability of natural gas companies to install many of the facilities expressly identified in section 2.55(a). INGAA states that cathodic protection, electrical and communication equipment, pig launchers and receivers, and buildings typically extend beyond the existing right-of-way and require additional work space for their installation. INGAA notes that since eminent domain is not available for section 2.55(a) installations, any additional work space can be obtained only through negotiations with landowners.

2. Commission Response

19. Implicit in the section 2.55 exemption from case-specific or blanket section 7(c) certificate authorization is the presumption that all auxiliary installations and replacement facilities will have limited adverse environmental

[19] Order No. 603, FERC Stats. & Regs. ¶ 31,073, 64 FR 26572 at 26575.

[20] *See Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements,* Notice of Proposed Rulemaking, Order No. 609, 64 FR 27717, at 27722 (May 21, 1999) FERC Stats. & Regs. ¶ 32,540 (1999).

[21] As noted above, the ancillary nature of these secondary facilities is indicated by section 2.55(a), which describes them as ''merely auxiliary or appurtenant'' and ''only for the purpose of obtaining more efficient or more economical operation of the authorized or proposed transmission facilities,'' and section 2.55(b) which limits replacement facilities to those that ''will have a substantially equivalent designed capacity.''

[22] *See* Order No. 603, FERC Stats. & Regs. ¶ 31,073, 64 FR 26572 at 26575.

[23] 42 U.S.C. 4321–4347 (2006).

[24] *See* Order No. 603–A, FERC Stats. & Regs. ¶ 31,081, 64 FR 54522 at 54524.

[25] *See, e.g., Arkla Energy Resources,* 67 FERC ¶ 61,173, at 61,516 (1994) (*Arkla*). Note that it is irrelevant whether a company is able to obtain new property rights by negotiation, since absent the opportunity for the Commission to evaluate the potential environmental impacts of construction outside a certificated project's prescribed boundaries, i.e., outside an area the Commission has previously reviewed and approved, the Commission cannot meet its NEPA obligations or ensure the activity is in the public interest.

[26] A natural gas company may rely on blanket certificate authority for the construction of an auxiliary or replacement facility so long as the installation meets the blanket certificate requirements under Part 157 of the Commissions regulations (i.e. that the facility is an eligible facility and satisfies any cost constraints and standard environmental conditions). Note that all activities undertaken pursuant to blanket authority, but for certain limited exceptions, require a company to provide written notice to affected landowners 45 days prior to commencing the activity. *See* 18 CFR 157.203(d) (2012).

and economic impacts, since it would be inconsistent with the public interest to permit projects with potentially significant adverse impacts to go forward without notice, opportunity for comment, and appropriate review.

20. We acknowledge that certain types of auxiliary installations, such as valves, involve minor facilities that do not merit an in-depth review, as the environmental and economic impacts are minimal. However, this is not the case for auxiliary installations that are more extensive or extend beyond the reviewed and approved boundaries of an existing facility. For example, INGAA noted in its filing that conventional ground bed installations for cathodic protection commonly involve construction outside of the right-of-way. We note that as an alternative to the ''conventional'' method of installation, deep-well anode bed installations, which may not require disturbance outside of the right-of-way, are also in use and may offer other benefits such as greater reliability of corrosion protection. INGAA also cites communication towers for the monitoring of electrical and communication equipment as auxiliary installations that involve ground-disturbing activity and are commonly located outside of the existing right-of-way.

21. In *Arkla,* the Commission held that the environmental impact of a section 2.55(b) replacement facility is insignificant when the facility is ''located within a compressor station or a natural gas pipeline's right-of-way'' [27]—i.e. within the previously studied, specific boundaries of a certificated project. In contrast, construction activities outside of the right-of-way have the potential to impose unknown and unmitigated impacts on the environment, and therefore should be subject to an environmental assessment or an environmental impact statement.[28] The same rationale holds true for section 2.55(a) auxiliary installations. The exclusion of auxiliary installations from NGA section 7(c) certificate requirements was based on the fact that the original facilities were constructed within a previously studied, precisely defined area. Any deviations from the certificate conditions applicable to the original project require additional scrutiny and additional authorization.

22. A section 2.55 facility located outside of the existing right-of-way or using land outside the previously used work space raises environmental concerns not contemplated in the original section 7(c) certificate proceeding, such as land use, erosion, sediment control, impacts on streams and soils, visual impacts, and threatened and endangered species. Therefore, to ensure the review of, and if need be, the mitigation of adverse environmental impacts caused by activities outside of an existing right-of-way or prior work space, a company cannot rely on section 2.55, but must instead rely on case-specific or blanket section 7(c) authorization. Regardless of whether a facility is constructed pursuant to section 2.55 or NGA section 7(c), a pipeline is required to obtain the necessary environmental approvals and construction permits from federal and state agencies.

23. In addition, a natural gas company cannot assume that merely because land was disturbed within the certificated right-of-way and work spaces, the construction of an auxiliary installation within the authorized boundaries will not disrupt the environment. Thus, as noted above, all environmental or construction conditions (i.e. compliance with the project's approved plans and procedures, e.g., right-of-way revegetation, monitoring, and maintenance) that were included as conditions attached to the original certificate remain in effect until the certificate is abandoned. These conditions do not expire once the facility goes into service and thus are applicable to all section 2.55 and section 380.15 activities.

24. When, in conformity with the clarified section 2.55(a) requirements, a natural gas company is obliged to file an application for authorization of a relatively minor installation outside of an existing right-of-way or work space, it is most likely that the blanket certificate will apply and the effort necessary to satisfy documentation and information requirements will be relatively minor (particularly so when an installation can qualify for section 157.203(b) automatic authorization). Further, to alleviate any concerns that the right-of-way or work space restriction will interrupt service to customers, a pipeline may use the emergency regulations under Part 284 Subpart I and/or may file, under emergency conditions, an application pursuant to section 157.17 of the regulations for a ''temporary certificate authorizing the construction and operation of extensions of existing facilities * * * that may be required to assure maintenance of adequate service or to service particular customers.'' [29]

C. Compliance With the Administrative Procedure Act

1. Comments

25. INGAA argues that Commission staff's position that auxiliary installations are limited to the originally certificated right-of-way and work space amounts to an informal rulemaking, without the opportunity for notice and comment, a violation of the requirements of the APA.[30]

2. Commission Response

26. We disagree. Commission staff's actions are in accord with the requirements of the APA. Staff's position is merely a clarification of a natural gas company's existing requirements, requirements imposed as specific conditions to a certificate authorization. This is not a new policy. As stated above, section 2.55 auxiliary and replacement facilities have always been confined by right-of-way and work space limitations, since the certificate authorizing a natural gas project only covers project facilities built within the right-of-way and using the work space authorized in the certificate. Thus, project activities outside the authorized right-of-way or work space would violate conditions applicable to the certificate. Because of these inherent certificate limitations, the Commission saw no need to amend section 2.55 until INGAA's requested clarification. As a result, we are initiating this Notice of Proposed Rulemaking to clarify that section 2.55(a) auxiliary installations must be constructed within the existing right-of-way or authorized facility site using the same temporary work space used to construct the existing facility.[31]

D. Landowner Notification for Activities Conducted Under Section 2.55 and Section 380.15

1. Comments

27. Commission staff has received numerous requests from landowners that we require companies to notify landowners in advance of any activity that will take place on their land.

[27] 67 FERC ¶ 61,173, at 61,516–17, n.4 (1994) (citing *Regulations Implementing National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (December 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783, at 30,942 (1987)).

[28] *See id.* at 61,517.

[29] *See, e.g., NorAm Energy Corporation,* 70 FERC ¶ 61,030 at 61,100 (1995) (citing 18 CFR 157.17) (2012).

[30] 5 U.S.C. 553 (2006).

[31] In any event, staff advice is not binding on the Commission—*see* 18 CFR 388.104 (2012)—thus, such advice is not subject to APA rulemaking procedures. A company seeking a definitive Commission ruling must apply for one, as INGAA has done.

2. Commission Response

28. We propose to add landowner notification requirements for both auxiliary installations and replacement facilities under section 2.55 and for siting and maintenance activities under section 380.15. Under proposed sections 2.55(c) and 380.15(b)(1), a natural gas company must notify affected landowners at least 10 days prior to commencing construction. The notification should include: (1) A brief description of the activity to be conducted or facilities to be constructed/replaced and the effects that the activities are expected to have on the landowner's property; (2) the name and phone number of the company representative that is knowledgeable about the project; and (3) a description of the Commission's Dispute Resolution Service Helpline, as explained in section 1b.21(g) of the Commission's regulations, and the Dispute Resolution Service Helpline number.

29. If the landowner has further questions concerning construction or maintenance activities, the landowner can contact the company representative for more details. If the landowner needs further information concerning the Commission's role in these types of projects, the landowner can contact the Commission's Dispute Resolution Service Helpline.

30. We also propose to define ''affected landowners'' as owners of property interests, as noted in the most recent tax notice, whose property (1) is directly affected (i.e., crossed or used) by the proposed activity, including all rights-of-way, facility sites, access roads, pipe and contractor yards, and temporary workspace, or (2) abuts either side of an existing right-of-way or facility site, or abuts the edge of a proposed right-of-way or facility site which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of the proposed construction work area.

III. Information Collection Statement

31. The Paperwork Reduction Act (PRA) [32] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.[33] The OMB's regulations implementing the PRA require approval of certain information collection requirements imposed by agency rules.[34] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

32. The Commission is submitting the proposed reporting requirements to OMB for its review and approval. The Commission solicits comments on the proposed modifications, the accuracy of burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden.

33. The only entities affected by this rule would be natural gas companies under the Commission's jurisdiction. The information collection requirements in this Final Rule are identified as follows.

34. FERC–577, ''Gas Pipeline Certificates: Environmental Impact Statements,'' identifies the Commission's information collections relating to the requirements set forth in NEPA and Parts 2, 157, 284, and 380 of the Commission's regulations. Applicants have to conduct appropriate studies which are necessary to determine the impact of the construction and operation of proposed jurisdictional facilities on human and natural resources, and the measures which may be necessary to protect the values of the affected area. These information collection requirements are mandatory.

35. Because this proposed rule adds a landowner notification requirement in section 2.55(c) and section 380.15(c) for activities undertaken pursuant to these sections, the overall burden on the industry will increase. However, because natural gas companies subject to our jurisdiction must already notify landowners in conjunction with section 3 projects and section 7 applications and when conducting activities under part 157 of our regulations, no new technology would be needed and no start-up costs would be incurred. Further, even without the notification requirement proposed herein, companies routinely inform landowners prior to coming onto their property, both as a courtesy and to avoid conflicts in landowner and company activities. Thus, the proposed notification is expected to be consistent with some companies' current practices, and consequently to impose little or no additional obligation on such companies.

36. In 1999, in estimating the landowner notification burden in Order No. 609,[35] we found companies would need four hours to identify affected landowners and prepare and distribute information describing the proposed project. Given advances in database management since then, and given that section 2.55 and section 380.15 activities generally involve activities that are smaller than those that go forward under blanket certificate authority, we anticipate companies will need two hours to meet the proposed landowner notification requirement.

37. While companies are required to file annual reports of replacement facilities under 2.55(b), no such reports are required for ancillary installations under 2.55(a). Thus, we have no data upon which to base an estimate of activities under 2.55(a). In view of this, Commission staff asked for information on activities under 2.55(a) from a small representative sample (less than ten) of jurisdictional companies and we have extrapolated our estimate based on company responses. We estimate that on average, approximately 6,500 auxiliary installation projects are undertaken annually.

38. Companies file an annual report itemizing all section 2.55(b) replacement activities. Our review of the more recent annual reports indicate that companies undertake, in total, approximately 500 section 2.55(b) projects per year.

39. Section 380.15 siting and maintenance activities, like activities under 2.55(a), do not require companies to submit an annual report. These activities are generally minor and planned for well in advance and cover a wide variety of efforts, e.g., physical up-keep of above-ground facilities and right-of-way vegetation maintenance. Further, any particular company's activities on its right-of-way can depend upon changing conditions such as maintenance initiatives, population density, and even weather. Because of this variety of possible activities and their minor nature we have estimated that, for all companies nationwide, there will be a total of approximately three times as many activities as take place under section 2.55(a) which would require a landowner notification, i.e., in the aggregate, 19,500 siting and

[32] 44 U.S.C. 3501–3520 (2006).

[33] OMB's regulations at 5 CFR 1320.3(c)(4)(i) (2012) require that ''[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons.''

[34] 5 CFR part 1320 (2012).

[35] *See* note 20.

maintenance activities that could require a landowner notification.

40. We estimate the proposed additional notification burden that the proposal would impose in the table below.

Proposed data collection	Annual number of respondents	Annual number of filings per respondent [36]	Number of hours per filing	Total annual hours
FERC–577 (new requirement, proposed in 18 CFR 2.55(a))	165	39.5	2	13,000
FERC–577 (new requirement, proposed in 18 CFR 2.55(b))	165	3	2	1,000
FERC–577 (new requirement, proposed in 18 CFR 380.15)	165	118	2	39,000
Total Annual Burden Hours				53,000

41. As discussed above, natural gas companies already conduct landowner notifications for larger projects, and some companies also routinely inform affected landowners in advance of undertaking activities on their property as it is considered a ''best practice'' for facility and right-of-way management. Given that some companies currently comply with the notification requirements proposed herein, we believe that the actual industry-wide increase in burden will be substantially less than what we have estimated here.

Information Collection Costs: The Commission seeks comments on the costs to comply with these revised requirements. It has projected the average cost for all respondents to be as follows: [37]

- $3,180,000.00 per year for all regulated entities;
- $19,272.00 per year for each regulated entity.

Title: FERC–577.

Action: Proposed Revision.

OMB Control Nos.: 1902–0128.

Respondents: Natural gas pipeline companies.

Frequency of Responses: On occasion.

Necessity of Information: The requirement to notify landowners is necessary for the Commission to carry out its NEPA responsibilities and meet the Commission's objectives of addressing landowner and environmental concerns fairly. The information provided to landowners is intended to accommodate, to the extent possible, any concerns they may have regarding a natural gas company's planning, locating, clearing, right-of-way maintenance, and facility construction or replacement activities on their property.

Internal Review: The Commission has reviewed the proposed revisions and has determined that they are necessary. These proposed requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

42. Interested persons may obtain information on the proposed reporting requirements or submit comments by contacting the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 (Attention: Information Clearance Officer, Office of the Executive Director), by phone 202–502–8663, or by email to *DataClearance@ferc.gov*). Comments on the proposed requirements may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov*. Please reference OMB Control No. 1902–0128, FERC–577, and Docket No. RM12–11 in your submission.

IV. Environmental Analysis

43. The Commission is required to prepare an environmental assessment or an environmental impact statement for any action that may have a significant adverse effect on the human environment. The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[38] Generally, the actions proposed to be taken here fall within the categorical exclusions in the Commission's regulations that are clarifying, corrective, or procedural and for information gathering, analysis, and dissemination.[39] Accordingly, an environmental review is not necessary and has not been prepared in connection with this proposed rulemaking.

V. Regulatory Flexibility Act

44. The Regulatory Flexibility Act of 1980 (RFA) [40] generally requires a description and analysis of agency rules that will have a significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[41] The SBA has established a size standard for natural gas pipeline companies transporting natural gas, stating that a firm is small if its annual receipts are less than $25.5 million.[42]

45. The proposed regulations impose requirements only on natural gas companies subject to the Commission's jurisdiction, the majority of which are not small businesses. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity. Approximately 165 companies—nearly all of them large entities—would be potential respondents subject to data collection FERC–577 reporting requirements. For the year 2011 (the most recent year for which information is available), only 15 companies not affiliated with larger companies had annual revenues of less than $25.5 million. Moreover, the proposed reporting requirements should have no meaningful economic impact on companies—be they large or small—subject to the Commission's regulatory jurisdiction. The Commission estimates that the cost per small entity is $19,272 per year. The Commission does not consider the estimated $19,272 impact

[36] This column reflects a rounded estimate for each jurisdictional natural gas company, averaged over all 165 such companies.

[37] The cost figures are derived by multiplying the total hours to prepare a response by an hourly wage estimate of $60 (based on average civil engineer wages and benefit information obtained from the Bureau of Labor Statistics' data at *http://bls.gov/oes/current/naics4_221200.htm#17-0000* and *http://www.bls.gov/news.release/ecec.nr0.htm* rates).

[38] 18 CFR 380.4 (2012).

[39] 18 CFR 380.4(a)(1) and (5) (2012).

[40] 5 U.S.C. 601–612 (2006).

[41] 13 CFR 121.101 (2012).

[42] 13 CFR 121.201 (2012), Subsector 486; *see* SBA's Table of Small Business Size Standards, effective March 26, 2012, *available at: http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*.

per entity to be significant. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this proposed rule should not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

46. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due March 5, 2013. Comments must refer to Docket No. RM12–11–000, and must include the commenter's name, the organization represented, if applicable, and the commenter's address in the comments.

47. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

48. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

49. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

50. In addition to publishing the full text of this document in the **Federal Register,** the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

51. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

52. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, and Reporting and recordkeeping requirements.

18 CFR Part 380

Environmental impact statements, and Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 2 and 380, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 2—GENERAL POLICY AND INTERPRETATIONS

■ 1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 601; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 792–828c, 2601–2645, 42 U.S.C. 4321–4370h, 7101–7352.

■ 2. Amend § 2.55 by adding a sentence after the last sentence in paragraph (a)(1), revising paragraph (b)(1)(ii), and adding paragraph (c) to read as follows:

§ 2.55 Definition of terms used in section 7(c).

* * * * *

(a) * * *

(1) * * * The auxiliary installations must be located within the existing, certificated permanent right-of-way or authorized facility site and must be constructed using the temporary work space used to construct the existing facility (See appendix A to this part 2 for guidelines on what is considered to be the appropriate work area in this context).

* * * * *

(b) * * *

(1) * * *

(ii) The replacement facilities will have a substantially equivalent designed delivery capacity, will be located in the same right-of-way or on the same site as the facilities being replaced, and will be constructed using the temporary work space used to construct the existing facility (See appendix A to this part 2 for guidelines on what is considered to be the appropriate work area in this context);

* * * * *

(c) *Landowner notification.* (1) No activity described in paragraphs (a) and (b) of this section is authorized unless the company makes a good faith effort to notify in writing all affected landowners, as defined in paragraph (c)(2) of this section, at least 10 days prior to commencing any activity under this section. A landowner may waive the 10-day prior notice requirement in writing as long as the notice has been provided. The notification shall include at least:

(i) A brief description of the facilities to be constructed or replaced and the effect the activity will have on the landowner's property;

(ii) The name and phone number of a company representative who is knowledgeable about the project; and

(iii) A description of the Commission's Dispute Resolution Service Helpline as explained in § 1b.21(g) of this chapter and the Dispute Resolution Service Helpline number.

(2) All affected landowners includes owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property:

(i) Is directly affected (i.e., crossed or used) by the proposed activity, including all rights-of-way, facility sites (including compressor stations, well sites, and all above-ground facilities), access roads, pipe and contractor yards, and temporary workspace; or

(ii) Abuts either side of an existing right-of-way or facility site, or abuts the edge of a proposed right-of-way or facility site which runs along a property line in the area that would be affected, or contains a residence within 50 feet of the proposed construction work area.

* * * * *

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

■ 3. The authority citation for Part 380 continues to read as follows:

Authority: 42 U.S.C. 4321–4370h, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

■ 4. In § 380.15, redesignate paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g) and add new paragraph (c) to read as follows:

§ 380.15 Siting and maintenance requirements.

* * * * *

(c) *Landowner notification.* (1) No siting, construction, or maintenance activity within the right-of-way is authorized unless the company makes a good faith effort to notify in writing all affected landowners, as defined in paragraph (c)(2) of this section, at least 10 days prior to commencing any such activity. A landowner may waive the 10-day prior notice requirement in writing as long as the notice has been provided. The notification shall include at least:

(i) A brief description of the activity and the effect the activity will have on the landowner's property;

(ii) The name and phone number of a company representative who is knowledgeable about the project; and

(iii) A description of the Commission's Dispute Resolution Service Helpline as explained in § 1b.21(g) of this chapter and the Dispute Resolution Service Helpline number.

(2) All affected landowners includes owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property:

(i) Is directly affected (i.e., crossed or used) by the proposed activity, including all facility sites (including compressor stations, well sites, and all above-ground facilities), rights-of-way, access roads, pipe and contractor yards, and temporary workspace; or

(ii) Abuts either side of an existing right-of-way or facility site, or abuts the edge of a proposed right-of-way or facility site which runs along a property line in the area that would be affected, or contains a residence within 50 feet of the proposed work area.

* * * * *

[FR Doc. 2012–31085 Filed 1–3–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–140437–12]

RIN 1545–BL28

Bond Premium Carryforward

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register,** the IRS is issuing temporary regulations that provide guidance on the tax treatment of a debt instrument with a bond premium carryforward in the holder's final accrual period, including a Treasury bill acquired at a premium. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments must be received by April 4, 2013.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–140437–12), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–140437–12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–140437–12).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, William E. Blanchard, (202) 622–3900; concerning submissions of comments, Oluwafunmilayo (Funmi) Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 171. The temporary regulations provide guidance on the tax treatment of a taxable debt instrument with a bond premium carryforward in the holder's final accrual period, including a Treasury bill acquired at a premium. In general, the temporary regulations provide that, upon the sale, retirement, or other disposition of a taxable bond, the holder treats the amount of any bond premium carryforward determined as of the end of the accrual period under § 1.171–2(a)(4)(i)(B) as a bond premium deduction under section 171(a)(1) for the holder's taxable year in which the sale, retirement, or other disposition occurs. The text of the temporary regulations also serves as the text of these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS as prescribed in the preamble under the ''Addresses'' heading. The Treasury Department and the IRS welcome comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available at *www.regulations.gov* for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for a public hearing will be published in the **Federal Register.**

Drafting Information

The principal author of these regulations is William E. Blanchard, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.171–2 is amended by adding a new paragraph (a)(4)(i)(C) to read as follows:

§ 1.171–2 Amortization of bond premium.

(a) * * *

(4) * * *

(i) * * *

(C) [The text of the proposed amendment to § 1.171–2(a)(4)(i)(C) is the same as the text for § 1.171–2T(a)(4)(i)(C) published elsewhere in this issue of the **Federal Register**].

* * * * *

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2012–31746 Filed 1–3–13; 8:45 am]

BILLING CODE 4830–01–P

Notices

Federal Register
Vol. 78, No. 3
Friday, January 4, 2013

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0100]

Notice of Request for Revision to and Extension of Approval of an Information Collection; APHIS Student Outreach Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the Animal and Plant Health Inspection Service's Student Outreach Program.

DATES: We will consider all comments that we receive on or before March 5, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-012-0100-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0100, 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-2012-0100* 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: For information on documents associated with the APHIS Student Outreach Program, contact Mr. Kenneth Johnson, Director, Office of Civil Rights, Diversity and Inclusion, Office of the Administrator, APHIS, 4700 River Road Unit 92, Riverdale, MD 20737; (202) 799–7012. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: APHIS Student Outreach Program.

OMB Number: 0579–0362.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service's (APHIS') Student Outreach Program is designed to help students learn about careers in animal science, veterinary medicine, plant pathology, and agribusiness. The program allows participants to live on a college campus and learn about agricultural science and agribusiness from university professors, practicing veterinarians, and professionals working for the U.S. Government.

The Student Outreach Program is designed to enrich students' lives while they are still in their formative years. APHIS' investment in the Student Outreach Program not only exposes students to careers in APHIS, it also gives APHIS' employees the opportunity to meet and invest in APHIS' future workforce. Students chosen to participate in the Student Outreach Program will gain experience through hands-on labs, workshops, and field trips. Students will also participate in character and team building activities and diversity workshops. Two programs currently in the Student Outreach Program are Ag-Discovery and Safeguarding Natural Heritage Program: Strengthening Navajo Youth Connections to the Land.

The Safeguarding Natural Heritage Program focuses on activities within the environs of the communities of the Navajo Nation. To participate in this program, students must submit an essay, letters of recommendation, and an APHIS Form 120, which includes the student application, parental release form, and a health history/emergency medical information form.

Ag-Discovery was established by APHIS prior to the Safeguarding Natural Heritage Program. To participate in this program, students must submit an essay, letters of recommendation, and a completed APHIS Form 119, which includes the student application, parental release form, student contract, and letter of recommendation template. These information collection activities were approved under the Office of Management and Budget (OMB) control number 0579–0362. Including the information collection activities associated with the Safeguarding Natural Heritage Program will add approximately 100 respondents and 200 total annual burden hours.

We are asking OMB to approve our use of these information collection activities, as revised, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 5.636363 hours per response.

Respondents: Full-time students (12 to 17 years of age, depending on the program).

Estimated annual number of respondents: 1,100.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 1,100.

Estimated total annual burden on respondents: 6,200 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 13th day of December 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–31567 Filed 1–3–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0079]

Guidelines for the Control of Tuberculosis in Elephants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service intends to use the 2010 guidelines issued by the United States Animal Health Association to assess compliance with the animal welfare regulations as related to elephant tuberculosis as well as to aid users in their compliance with those regulations. We accept these guidelines as meeting the requirements in the Animal Welfare Act and are making them available for review. We welcome comment on our intention to utilize the guidelines as a means of assessing compliance with our regulations.

DATES: We will consider all comments that we receive on or before March 5, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0079-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0079, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The guidelines and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0079* 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. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 851–3751.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (7 U.S.C. 2131–2159, AWA) authorizes the Secretary of Agriculture (the Secretary) to promulgate rules and standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, exhibitors, research facilities, and other regulated entities. The Secretary has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). The APHIS Animal Care program ensures compliance with AWA regulations and standards. Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Currently, part 2 consists of subparts A through I, which contain regulations pertaining to licensing and registration of dealers, exhibitors, and research facilities, and standards for veterinary care, identification of animals, and recordkeeping.

The Attending Veterinarian and Adequate Veterinary Care regulations contained in Subpart C and Subpart D are performance standards that do not prescribe specific measures to be undertaken in order to be in compliance with those regulations. Pursuant to the regulations, research facilities, dealers, and exhibitors are required to provide ''adequate veterinary care'' to the animals in their custody. A research facility, dealer, or exhibitor that employs a part-time attending veterinarian (rather than a full-time attending veterinarian) must do so under ''formal arrangements'' that ''shall include a written program of veterinary care.'' Each research facility, dealer, and exhibitor is required to ''establish and maintain programs of adequate veterinary care.'' In 1998, APHIS adopted the use of a document entitled ''Guidelines for the Control of Tuberculosis in Elephants'' developed by The National Tuberculosis Working Group for Zoo and Wildlife Species in order to address the emerging issue of tuberculosis in elephants and to provide the licensees and registrants with concrete ways to meet the standards established in subpart D with regard to elephant tuberculosis. This guidance document has been modified at various times since then in order to incorporate new information and to improve recommended practices. These guidelines have been utilized by APHIS to monitor and address elephant tuberculosis under the AWA.

In November 2010, the Tuberculosis Committee of the United States Animal Health Association (USAHA), which has taken over administration of the guidelines from The National Tuberculosis Working Group for Zoo and Wildlife Species, approved revisions to the guidelines. Following the release of the 2010 revised guidelines, USAHA submitted a recommendation to APHIS for the implementation of the newest version of the guidelines, ''Guidelines for the Control of Tuberculosis in Elephants 2010.'' We have reviewed the revised guidelines and find them to be in line with the requirements of the AWA. We have determined that the 2010 guidelines are useful to determine whether research facilities, dealers, and exhibitors meet the regulations' minimum requirements for the provision of ''adequate veterinary care'' to elephants and the establishment and maintenance of programs of adequate veterinary care for elephants with respect to tuberculosis. We have therefore determined that it is appropriate for APHIS to continue to utilize these guidelines to assess compliance with the regulations in 9 CFR subparts C and D. We welcome comments from the public regarding this determination to use the guidelines in this manner. Given that APHIS is not the author of the document, we are unable to make changes to specific provisions contained in the guidelines. Accordingly, we are seeking comments on the overall suitability of the document as a means of assessing compliance with our regulations in 9 CFR subparts C and D.

Copies of the document are available on the Internet via the Federal eRulemaking Portal at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0079,* on the Animal Care Web site at *http://www.aphis.usda.gov/animal_welfare/index.shtml,* or from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 20th day of December 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–31644 Filed 1–3–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Guarantee Fee Rates for Guaranteed Loans for Fiscal Year 2013; Maximum Portion of Guarantee Authority Available for Fiscal Year 2013; Annual Renewal Fee for Fiscal Year 2013

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: As set forth in 7 CFR 4279.107, the Agency has the authority to charge an initial guarantee fee and an annual renewal fee for loans made under the Business and Industry (B&I) Guaranteed Loan Program. Pursuant to that authority, the Agency is establishing the renewal fee rate at one-half of 1 percent for the B&I Guaranteed Loan Program. This rate will apply to all loans obligated in Fiscal Year (FY) 2013 that are made under the B&I program. As established in 7 CFR 4279.107(b)(1), the amount of the fee on each guaranteed loan will be determined by multiplying the fee rate by the outstanding principal loan balance as of December 31, multiplied by the percent of guarantee.

The Agency was authorized by the 2012 Appropriations Bill to charge a maximum of 3 percent for it guarantee fee for FY 2012. It is the Agency's expectation that the 2013 Appropriations Bill will contain the same authorization to charge a maximum of 3 percent for its guarantee fee for FY 2013. As such, the guarantee fee for FY 2013 will be 3 percent. In the event the 2013 Appropriations Bill reduces the fee authorization below 3 percent, a subsequent notice will be published in the **Federal Register** amending the guarantee fee for FY 2013.

As set forth in 7 CFR 4279.107(a) and 4279.119(b)(4), each fiscal year, the Agency shall establish a limit on the maximum portion of B&I guarantee authority available for that fiscal year that may be used to guarantee loans with a reduced guarantee fee or guaranteed loans with a guarantee percentage exceeding 80 percent.

Allowing a reduced guarantee fee or exceeding the 80 percent guarantee on certain B&I guaranteed loans that meet the conditions set forth in 7 CFR 4279.107 and 4279.119 will increase the Agency's ability to focus guarantee assistance on projects which the Agency has found particularly meritorious. For reduced guarantee fees, the borrower's business must support value-added agriculture and result in farmers benefiting financially or must be a high impact business investment as defined in 7 CFR 4279.155(b)(5) and be located in rural communities that experience long-term population decline and job deterioration, remain persistently poor, are experiencing trauma as a result of natural disaster, or are experiencing fundamental structural changes in its economic base. For guaranteed loans exceeding 80 percent, such projects must qualify as a high-priority project (a requirement of 7 CFR 4279.119(b)), scoring at least 50 points in accordance with 7 CFR 4279.155(b).

Not more than 12 percent of the Agency's quarterly apportioned B&I guarantee authority will be reserved for loan requests with a reduced fee, and not more than 15 percent of the Agency's quarterly apportioned guarantee authority will be reserved for guaranteed loan requests with a guarantee percentage exceeding 80 percent. Once the respective quarterly limits are reached, all additional loans for that quarter will be at the standard fee and guarantee limits.

DATES: *Effective Date:* January 4, 2013.

FOR FURTHER INFORMATION CONTACT: Brenda Griffin, USDA, Rural Development, Business Programs, Business and Industry Division, STOP 3224, 1400 Independence Avenue SW., Washington, DC 20250–3224, telephone (202) 720–6802, email *brenda.griffin@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866, as amended by Executive Order 13258.

Dated: December 4, 2012.

Lillian Salerno,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2012–31711 Filed 1–3–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Loan Amount for Business and Industry Guaranteed Loans in Fiscal Year 2013

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: Section 4279.119(a)(1) of 7 CFR allows the Rural Business-Cooperative Service Administrator, at the Administrator's discretion, to grant an exception to the $10 million limit for Business and Industry (B&I) guaranteed loans of $25 million or less under certain circumstances. Due to the limited program funds that are expected for Fiscal Year (FY) 2013 for the B&I Guaranteed Loan Program, the Administrator has decided to only grant exceptions to the $10 million loan limit for existing B&I guaranteed loan borrowers that meet certain criteria. Limiting the maximum loan amount will enable the Agency to provide financing assistance to as many projects as possible. In order for an existing B&I guaranteed loan borrower to be granted an exception to the $10 million loan limit, they must meet the following criteria: (1) Qualify as a high priority project (a requirement of 7 CFR 4279.119(a)(1)(i)), scoring at least 50 points in accordance with the criteria in 7 CFR 4279.155(b); (2) have an existing B&I loan that has been current for the past 12 months without such status being achieved through debt forgiveness; and (3) not be requesting a refinance of the existing B&I loan. All other requirements of 7 CFR 4279.119(a) must be met. Limiting exceptions to the $10 million limit will allow the Agency to guarantee more loans and target smaller loans/projects impacting more small businesses and will assist the Agency to conserve scarce funding dollars at a time when there is unprecedented interest in the program.

DATES: *Effective Date:* January 4, 2013.

FOR FURTHER INFORMATION CONTACT: Brenda Griffin, email *brenda.griffin@wdc.usda.gov,* Rural Development, Business Programs, Business and Industry Division, STOP 3224, 1400 Independence Avenue SW., Washington, DC 20250–3224, telephone (202) 720–6802.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 as amended by Executive Order 13258.

Dated: October 3, 2012.

Lillian Salerno,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2012–31713 Filed 1–3–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[12/11/2012 through 12/28/2012]

Firm name	Firm address	Date accepted for investigation	Product(s)
PRL, Inc.	64 Rexmont Road, Cornwall, PA 17016.	12/12/2012	Firm provides turnkey capabilities for high specification castings primarily used to produce valves and pumps used by the US military and power generation industries.
Autopilot, Inc.	619 North Church, Unit #2, Bozeman, MT 59715.	12/12/2012	Firm manufactures machines components, injection moldings, and tooling. Firm provides services for design, lean manufacturing consulting.
Advanced Technical Ceramics Company.	511 Manufacturers Road, Chattanooga, TN 37405.	12/17/2012	Firm produces high tech ceramics for the electronics industry; primary manufacturing material is alumina.
SouthFresh Aquaculture, LLC	1792 N. McFarland Blvd. Suite B, Tuscaloosa, AL 35406.	12/17/2012	Firm produces processed frozen and fresh catfish products; primary manufacturing material is catfish.
West Central Manufacturing, Inc.	910 E. Saint Andrew Street, Rapid City, SD 57701.	12/20/2012	Firm manufactures steel doors, frames, and partitions.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 28, 2012.

Miriam Kearse,

Eligibility Examiner

[FR Doc. 2012–31730 Filed 1–3–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–806]

Certain Pasta From Turkey: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order

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

DATES: *Effective Date:* January 4, 2013.

SUMMARY: On September 4, 2012, the Department of Commerce (''Department'') initiated the third Sunset Review of the countervailing duty order on certain pasta from Turkey. The Department finds that revocation of this countervailing duty order would be likely to lead to continuation or recurrence of net countervailable subsidies at the rates in the ''Final Results of Reviews'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0914.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order on certain pasta from Turkey was published on July 24, 1996. *See Notice of Countervailing Duty Order: Certain Pasta (''Pasta'') From Turkey,* 61 FR 38546 (July 24, 1996).

On September 4, 2012, the Department initiated the third sunset review of this order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 53867 (September 4, 2012) (''notice of initiation''). The Department received a notice of intent to participate from the following domestic parties: A. Zerega's Sons, Inc., American Italian Pasta Company, Dakota Growers Pasta Company, Inc., New World Pasta Company, and Philadelphia Macaroni Company (collectively, ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i).

The Department received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department also received a substantive response from the Government of Turkey, but received no responses from respondent interested parties. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day)

sunset review of the countervailing duty order on certain pasta from Turkey.

Scope of the Order

The merchandise subject to the order is pasta. The product is currently classified under the Harmonized Tariff Schedule of the United States (''HTS'') item numbers 1902.19.20. Although the HTS numbers are provided for convenience and customs purposes, the written product description, available in *Notice of Countervailing Duty Order: Certain Pasta from Turkey,* 61 FR 38546 (July 24, 1996), remains dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Lynn Fischer Fox, Deputy Assistant Secretary for Policy and Negotiations, dated December 28, 2012, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of countervailable subsidies and the net countervailable subsidies likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/ia/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the countervailing duty order on certain pasta from Turkey would be likely to lead to continuation or recurrence of countervailing subsidies at the following net countervailable subsidy rates:

Manufacturers/exporters/producers	Net countervailable subsidy (percent)
Filiz Gida Sanayi ve Ticaret	1.63
Maktas Makarnacilik ve Ticaret/Gidasa Gida San.Tic.A.S.	13.09
Oba Makarnacilik Sanayi ve Ticaret	13.08
All Others	8.85

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: December 28, 2012.

Lynn Fischer Fox,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2012–31726 Filed 1–3–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order

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

DATES: *Effective Date:* January 4, 2013.

SUMMARY: On September 4, 2012, the Department of Commerce (''Department'') initiated the third Sunset Review of the countervailing duty order on certain pasta from Italy. The Department finds that revocation of this countervailing duty order would be likely to lead to continuation or recurrence of net countervailable subsidies at the rates in the ''Final Results of Reviews'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0914.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order on certain pasta from Italy was published on July 24, 1996. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy,* 61 FR 38544 (July 24, 1996).

On September 4, 2012, the Department initiated the third sunset review of this order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 53867 (September 4, 2012). The Department received a notice of intent to participate from the following domestic parties: A. Zerega's Sons, Inc., American Italian Pasta Company, Dakota Growers Pasta Company, Inc., New World Pasta Company, and Philadelphia Macaroni Company (collectively, ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i).

The Department received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department also received a substantive response from the Government of Italy, but received no responses from respondent interested parties. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day) sunset review of the countervailing duty order on certain pasta from Italy.

Scope of the Order

The merchandise subject to the order is pasta. The product is currently classified under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTS numbers are provided for convenience and customs purposes, the written product description, available in *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy,* 61 FR 38544 (July 24, 1996), remains dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to

Lynn Fischer Fox, Deputy Assistant Secretary for Policy and Negotiations, dated December 28, 2012, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/ia/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(b)(1) and (3) of the Act, we determine that revocation of the countervailing duty order on certain pasta from Italy would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Manufacturers/exporters/producers	Net countervailable subsidy (percent)
Agritalia, S.r.l.	6.84
Arrighi S.p.A. Industrie Alimentari	6.73
De Matteis Agroalimentare S.p.A.	6.01
Delverde, S.r.l.	9.64
F. Ili De Cecco di Filippo Fara S. Martino S.p.A.	6.28
Industria Alimentare Colavita, S.p.A.	5.89
Isola del Grano, S.r.L.	13.58
Italpast S.p.A.	13.58
Italpasta S.r.L.	6.73
La Molisana Alimentari S.p.A.	7.70
Labor, S.r.L.	13.58
Molino e Pastificio De Cecco S.p.A. Pescara	6.28
Pastificio Guido Ferrara	5.22
Pastificio Campano, S.p.A.	6.35
Pastificio Riscossa F.lli Mastromauro S.r.L.	10.69
Tamma Industrie Alimentari di Capitanata	9.64
All Others	7.39

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: December 28, 2012.

Lynn Fischer Fox,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2012–31727 Filed 1–3–13; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0015]

Proposed Extension of Approval of Information Collection; Comment Request—Testing and Recordkeeping Requirements Under the Standard for the Flammability (Open Flame) of Mattresses

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed 3-year extension of approval of information collection requirements in the Standard for the Flammability—Open Flame—of Mattresses Sets (Open-Flame standard), 16 CFR part 1633. The Commission has a separate flammability standard that addresses cigarette ignition of mattresses, 16 CFR part 1632. The Open-Flame standard is intended to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses, particularly those initially ignited by open-flame sources, such as lighters, candles, and matches. The Open-Flame standard prescribes a test to minimize or delay flashover when a mattress is ignited. The standard requires manufacturers to test specimens of each of their mattress prototypes before mattresses based on that prototype may be introduced into commerce. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0133. OMB's most recent extension of approval will expire on March 31, 2013. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive comments not later than March 5, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2009–0015, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov*.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

The standard requires detailed documentation of prototype identification and testing records, model and prototype specifications, inputs

used, name and location of suppliers, and confirmation test records, if establishments choose to pool a prototype. This documentation is in addition to documentation already conducted by mattress manufacturers in their efforts to meet the cigarette standard under 16 CFR part 1632. CPSC staff estimates that there are 571 establishments producing conventional mattresses and 100 establishments producing nonconventional mattresses in the United States, for a total of 671 firms affected by this standard. CPSC staff estimates the recordkeeping requirements to take about 4 hours and 44 minutes per establishment, per qualified prototype. Although some larger manufacturers reportedly are producing mattresses based on more than 100 prototypes, most mattress manufacturers base their complying production on 15 to 20 prototypes.

Assuming that establishments qualify their production with an average of 20 different qualified prototypes, recordkeeping time is estimated to be 94.7 hours (4.73 hours × 20 prototypes) per establishment, per year. (However, pooling among establishments or using a prototype qualification for longer than 1 year will reduce this estimate). Accordingly, the annual recordkeeping time cost to all mattress producers is estimated at 63,521 hours (94.7 hours × 671 establishments). The hourly compensation for the time required for recordkeeping is $27.64 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2012, Table 9, total compensation for all sales and office workers in goods-producing, private industries: *http://www.bls.gov/ncs*). Total estimated costs for recordkeeping are approximately $1.7 million (63,521 hours × $27.64).

The estimated annual cost of information collection requirements to the federal government is approximately $717,954. This represents 50 full-time employee staff hours. Record review will be performed during compliance inspections conducted to follow up on consumer complaints and reports of injury that indicate possible violations of the regulations. This estimate uses an annual wage of $119,238 (the equivalent of a GS–14 Step 5 employee), with an additional 30.8 percent added for benefits (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' September 2012, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) for total annual compensation of $172,309 per full-time employee.

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: December 31, 2012.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2012–31677 Filed 1–3–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–59]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–59 with attached transmittal and policy justification, and Sensitivity of Technology.

Dated: December 31, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5006–01–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

DEC 21 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-59, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Qatar for defense articles and services estimated to cost $406 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,

FOR William E. Landay, III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–59

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:* Qatar

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$276 Million
Other	$130 Million
Total	$406 Million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 7 M142 High Mobility Artillery Rocket System (HIMARS) Launchers with the Universal Fire Control System (UFCS); 60 M57 Army Tactical Missile System (ATACMS) Block IA T2K Unitary Rockets (60 pods, 1 rocket per pod); 360 M31A1 Guided Multiple Launch Rocket System (GMLRS) Unitary Rockets (60 pods, 6 rockets per pod); 180 M28A2 Reduced Range Practice Rockets (30 pods, 6 rockets per pod); 7 M68A2 Trainers, 1 Advanced Field Artillery Tactical Data System (AFATDS); 2 M1151A1 High Mobility Multipurpose Wheeled Vehicles (HMMWV); and 2 M1152A2 HMMWVs. Also included are simulators, generators, transportation, wheeled vehicles, communications equipment, spare and repair parts, support equipment, 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 support.

(iv) *Military Department:* Army (UAQ)

(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:* 21 December 2012

POLICY JUSTIFICATION

Qatar—HIMARS, ATACMS, and GMLRS

The Government of Qatar has requested a possible sale of 7 M142 High Mobility Artillery Rocket System (HIMARS) Launchers with the Universal Fire Control System (UFCS); 60 M57 Army Tactical Missile System (ATACMS) Block 1A T2K Unitary Rockets (60 pods, 1 rocket per pod); 360 M31A1 Guided Multiple Launch Rocket System (GMLRS) Unitary Rockets (60 pods, 6 rockets per pod); 180 M28A2 Reduced Range Practice Rockets (30 pods, 6 rockets per pod); 7 M68A2 Trainers, 1 Advanced Field Artillery Tactical Data System (AFATDS); 2 M1151A1 High Mobility Multipurpose Wheeled Vehicles (HMMWV); and 2 M1152A2 HMMWVs. Also included are simulators, generators, transportation, wheeled vehicles, communications equipment, spare and repair parts, support equipment, 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 support. The estimated cost is $406 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of an important partner which has been, and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Qatar's capability to meet current and future threats and provide greater security for its critical infrastructure. It will also enhance Qatar's interoperability with the U.S. and its allies, making it a more valuable partner in an increasingly important area of the world. Qatar will have no difficulty absorbing these launchers into its armed forces.

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 Missile 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 the assignment of two contractor representatives to Qatar for a minimum of one year to support delivery of the HIMARS and to provide support and equipment familiarization.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–59

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The High Mobility Artillery Rocket System (HIMARS) with the Universal Fire Control System (UFCS) is a C–130 transportable, wheeled version of the Multiple Launch Rocket System (MLRS) launcher. Integrated on a 5-ton Family of Medium Tactical Vehicles (FMTV) truck chassis, it carries one launch pod containing six MLRS rockets or one ATACMS missile and is capable of firing all MLRS Family of Munitions (MFOM) rockets and missiles, to include Guided MLRS, ATACMS Unitary, and future variants. HIMARS operates with the same MLRS command, control, and communications, as well as the same size crew, as the M270A1 launcher. The HIMARS launcher has a Global Positioning System (GPS), but can operate without it. The launcher has a maximum speed of 55 mph and a minimum cruising range of 300 miles. The UFCS provides the command and control interface, man-machine interface, weapon interface, launcher interface and embedded training. The UFCS enables the launcher to interoperate with compatible national fire direction systems to navigate to specific fire and reload points, compute the technical firing solution, and orient the Launcher Module (LM) on the target to deliver the weapon accurately and effectively. The HIMARS launcher is moderately susceptible to reverse engineering. However, the cost to develop and establish a production capability would be prohibitive for many countries. It includes Built-in-Test and capability to store critical mission parameters, as well as system configuration and maintenance information. The UFCS also provided position navigation and processing necessary to direct and maintain control of the launcher system to allow for accurate firing and loading of weapons. The UFCS is militarily critical because it has the latest software and hardware. Reverse engineering would allow countermeasures to be developed, degrading the total weapon system. It would also impact the commercial business base by allowing cheap replication without the expenditure of Research and Development funds. The UFCS software is classified as Secret. The HIMARS hardware is Unclassified.

2. The M57 ATACMS Block 1A T2K Unitary Rocket provides Corps and Joint Task Force Commanders the capability to attack high-value, time sensitive targets when and where collateral damage, unexploded ordnance, or piloted aircraft risk may be of concern. It can be employed, even during inclement weather, against a variety of infrastructure, tactical, and, operational targets. These targets include both single and multi-story buildings, radio and television communications centers, telephone-relay sites, and other targets located in urban or foliage restricted terrain. The M57 ATACMS Block 1A (Unitary) rocket is a conventional, semi-ballistic missile which utilizes a 500-lb HE unitary warhead. The Block IA configuration has increased range and accuracy as compared to the Block I (70–300km for Block 1A vs. 25–165km for Block I) and maintains lethality due to a Global Positioning System (GPS) aided guidance system. The M57 ATACMS Block 1A (Unitary) is the Full Material Release variant of ATACMS Unitary (formerly the M48 Quick Reaction Unitary), and has been upgraded to TACMS 2K (T2K) specifications (T2K includes redesigned components to compensate for obsolescence issues and bring down per-unit costs). Components of the M57 ATACMS Block IA Unitary missile are considered highly resistant to reverse engineering, and the impact of loss or diversion of the end item hardware would have minimum adverse impact. However, technical data for production of the Ring Laser Gyroscope (RLG), or for production, procession, fabrication, and loading of the solid propellant rocket motor are potentially applicable to development and production of accurate, long-range missile delivery systems. In addition, the RLG and accelerometers would have applicability to aircraft, space, and submarine programs. Lithium battery technology has applicability in a number of areas such as smart munitions communication, etc. Technologies used in the missile guidance and control subsystems and propulsion system are on the Militarily Critical Technologies List with details provided below:

a. The Inertial Measurement Unit (IMU) is militarily critical due to the components used and the manufacturing process involved in the development of the ring laser gyroscope (RLG), accelerometers, microprocessors, and integration of the GPS receiver into the missile.

b. The propulsion system technology is militarily critical. Critical factors include low-burn rate/high performance propellant, case bonding, and design for long shelf-life stability.

c. The lithium thermal batteries used in the tactical missile guidance and control are militarily critical. Within the U.S., only a small number of companies can produce batteries having the required combination of energy density and shelf life.

d. The system software could be used by adversaries to evaluate missions and capabilities of the missile and is therefore militarily critical.

The data table and mission critical data generator special applications software is classified Confidential. The Security Classification Guide's (SCG's) classification of performance data and information ranges from Unclassified to Secret. System accuracy, lethality, and effectiveness data are classified Secret. System response time and most trajectory data are classified Confidential. Range, reliability, and maintainability data are Unclassified. Countermeasures and counter-countermeasures are classified Secret.

3. The M31 Guided Multiple Launch Rocket System (GMLRS) Unitary uses a Unitary High Explosive (HE) Warhead along with GPS-aided IMU based guidance and control for ground-to-ground precision point targeting. GPS is not required for GMLRS to meet its effectiveness threshold. Additionally, GMLRS Unitary uses an Electronic Safe and Arm Fuse (ESAF) along with a nose mounted proximity sensor to give enhanced effectiveness to the GMLRS Unitary rocket by providing tri-mode warhead functionality with point detonate, point detonate with programmable delay, or Height of Burst proximity function. Control of the rocket in flight is accomplished by fins (canards) located in the nose section. The GMLRS Unitary M31A1 is comprised of a Launch Pod Container (LPC) and six GMLRS Unitary Rockets. The LPC can be loaded in the M270A1, M142 HIMARS, or in the European M270 launcher. The LPC provides a protective environment for the GMLRS Unitary during shipment and storage, and serves as an expendable launch rail when the GMLRS Unitary Rocket is fired. The height, width, length, and other features of the LPC are exactly the same as for the MLRS rocket LPC. The LPC is a controlled breathing type container equipped with desiccant for humidity control. The forward and aft LPC covers are designed to fracture as the rocket egresses from the container. The GMLRS rocket utilizes technologies in the guidance and control subsystem and the rocket motor that appear on the Military Critical Technologies List. The most serious consequences of unauthorized disclosure of information concerning the guidance and control subsystem are the accelerated development of countermeasures and manufacturing capability by other nations. Components of the GMLRS system are considered highly resistant to reverse engineering and the impact of loss or diversion of the end item hardware would have minimum adverse impact. However, technical data for production of the RLG, or for production, processing, fabrication, and loading of the solid propellant rocket motor are directly applicable to the development and production of accurate, long-range rocket and missile systems. In addition, the RLG and accelerometers would have applicability to aircraft, space and submarine programs. Lithium battery technology has applicability in a number of areas such as smart munitions, communications, etc. Production technology for the GMLRS motor exceeds limits established in the Missile Technology Control Regime.

a. The proximity sensor does not include special anti-tamper features nor is there any attempt to hide original component markings. Reverse engineering and then reproducing the fuse system, while not impossible, would require a considerable amount of resources, technical ability, testing and time; both for the ESAF and the Proximity Sensor. The details of the Directional Doppler Ratio (DDR) signal processing technique used in the GMLRS Unitary proximity sensor and in other U.S. Army proximity fuses remains classified Secret.

b. The GMLRS guidance and control subsystem is composed of a three-axis laser gyro inertial sensor assembly and an electronics chassis assembly. The basic design and packaging of the guidance and control subsystem is unique and critical to GMLRS and includes several embedded Non-Developmental Items (NDIs). The assembly must fit into the space available in the forward section of the rocket. The technology involved with the guidance and control subsystem is militarily critical due to the components used, and the manufacturing processes involved in development of the RLGs, accelerometers, microprocessors and GPS. The rocket is guided by an inertial navigation system with GPS updates. The rockets are Selective Adaptive Anti-Spoofing Module (SAASM) compliant and will have specific country code and coalition codes loaded in the key deployment package by the GPS Joint Program Office.

c. RLG technology is militarily critical. The RLGs have been produced and used in military and commercial systems since the mid-1970s. Widespread use of RLGs has enabled refinement of production techniques and processes resulting in high-rate, low cost production, while improving weapon system accuracy. RLG critical technology factors include the processes, procedures, and equipment used in the manufacture, inspection and test of RLG hardware.

d. Like the RLGs, the accelerometer critical technology factors include the processes, procedures and equipment used in the manufacture, inspection, and test of accelerometer hardware.

e. The GMLRS uses microprocessors to control data collection from the inertial sensors, and to perform guidance, autopilot, navigation, and hardware interface communications functions. The latest technology in microprocessor development is used in GMLRS, and is militarily critical.

f. The technology involved with the integration of the GPS receiver and the SAASM into the GMLRS guidance and control subsystem is militarily critical.

g. The GMLRS rocket propulsion subsystem technology is militarily critical. This propellant formulation has been incorporated in a limited motor volume to provide the boost and sustain thrust profile that meets the unique range and payload requirements of the GMLRS system. Critical factors include low-burn rate/high-performance propellant, limited toxicity, and design for extended shelf-life stability.

h. A lithium thermal battery powers the GMLRS rocket electronics. The battery is critical and unique to GMLRS. The knowledge required for the design and production of thermal batteries is not widely held. Within the U.S., only a limited number of companies can produce batteries having the required combination of energy density, and shelf life. However, Aerospatiale Batteries in Bourges, France also has the capability to produce batteries of this type.

i. The GMLRS system software is militarily critical. The software is uploaded to the rocket from the launcher during pre-launch operations. The system software would be useful to adversaries concerning GMLRS

missions and tactical capabilities, and could possibly be reverse engineered to duplicate the algorithms.

j. The U.S. proximity sensor for height of burst fusing is listed as militarily critical technology. The GMLRS proximity sensor and ESAF fall within that definition. The proximity sensor design utilizes DDR as a basic signal processing technique and commercial-off-the-shelf (COTS) parts for the transmitter and electronic signal processing components. The GMLRS proximity sensor uses a unique frequency and signal processing algorithm. The proximity sensor is only turned on over the target, and it cannot be functioned or turned on during pre-flight built-in-test. Operating frequency parameters and the proprietary signal processing algorithm are unique to the GMLRS proximity sensor and are classified Secret. The assembled GMLRS and components are Unclassified. Performance of GMLRS is classified Confidential.

4. The Advanced Field Artillery Tactical Data System (AFATDS) is an automated C3 (Command, Control, and Communications) system for the fires battlefield functional area. It provides the commander with integrated, responsive, and reliable fire support. AFATDS is a fully automated fire support system, which minimizes the sensor-to-shooter timeline and increases the hit ratio. It provides fully automated support for planning, coordinating and controlling mortars, field artillery cannons, rockets, close air support, attack helicopter and naval gunfire, for close support, counter-fire, interdiction, and deep operations.

5. 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 weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–31724 Filed 1–3–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–02]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–02 with attached transmittal, policy justification and sensitivity of technology.

Dated: December 31, 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

DEC 21 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. 12-02, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $1.2 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 12–02

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* ..	$.687 billion
Other	$.513 billion
Total	$1.2 billion

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* four (4) RQ–4 Block 30 (I) Global Hawk Remotely Piloted Aircraft with the Enhanced Integrated Sensor Suite (EISS). The EISS includes infrared/electro-optical, synthetic aperture radar imagery and ground moving target indicator. The ground segment includes a mission control element and a launch and recovery element. Also included is an imagery intelligence exploitation system, test equipment, ground support, operational flight test support, communications equipment, spare and repair parts, personnel training, publications and technical data, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Air Force (SAC)

(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 Attached Annex

(viii) *Date Report Delivered to Congress:* 21 December 2012

POLICY JUSTIFICATION

Republic of Korea—RQ–4 Block 30 (I) Global Hawk Remotely Piloted Aircraft

The Government of the Republic of Korea (ROK) has requested a possible sale of four (4) RQ–4 Block 30 (I) Global Hawk Remotely Piloted Aircraft with the Enhanced Integrated Sensor Suite (EISS). The EISS includes infrared/electro-optical, synthetic aperture radar imagery and ground moving target indicator, mission control element, launch and recovery element, signals intelligence package, an imagery intelligence exploitation system, test equipment, ground support, operational flight test support, communications equipment, spare and repair parts, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical and logistics support services, and other related elements of logistics support. The estimated cost is $1.2 billion.

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 ROK needs this intelligence, surveillance and reconnaissance (ISR) capability to assume primary responsibility for intelligence gathering from the U.S.-led Combined Forces Command. The transfer from the U.S. to the ROK of wartime operational control over Korean forces will occur in 2015. The proposed sale of the RQ–4 will significantly enhance the ROK's ISR capabilities and help ensure the alliance is able to continue to monitor and deter regional threats. The ROK will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this system will not alter the basic military balance in the region.

The principal contractor will be Northrop Grumman Corporation in Rancho Bernardo, California. The purchaser requested offsets but at this time agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will require the assignment contractor representatives to Korea to perform contractor logistics support and to support required enhanced end use monitoring (EEUM) activities.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–02

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 RQ–4 Block 30 Global Hawk hardware and software are Unclassified. The highest level of classified information required for operation may be Secret depending on the classification of the imagery or Signals Intelligence (SIGINT) utilized on a specific operation. The RQ–4 is optimized for long range and prolonged flight endurance. It is capable of fully autonomous operations once programmed by the ground stations, including fully automatic taxi, take-off, flight data collection, and recovery. It is used for military intelligence, surveillance, and reconnaissance. Aircraft system, sensor, and navigational status are provided continuously to the ground operators through a health and status downlink for mission monitoring. The navigation and sensor plan can by dynamically updated in-flight through any of the redundant data links. Data links can be an X-Band Line of Sight communication or Ku-Band Over-the-Horizon Satellite Communications. The air vehicle has multiple contingency modes to provide safe, predictable operation in the event of lost data links, mission critical equipment, or flight critical equipment. Navigation is via inertial navigation with integrated global positioning system (GPS) updates. Taxi, take-off, and landing accuracy are enhanced with dual radio altimeters and Differential GPS. The vehicle is capable of operating from a standard paved runway. Real time missions are flown under the control of a pilot in a Mission Control Element. It is designed to carry a non-weapons internal payload of 3,000 lbs consisting primarily of sensors and avionics. The following payloads are integrated into the RQ–4: Enhanced Imagery Sensor Suite that includes multi-use infrared, electro-optical, ground moving target indicator, and synthetic aperture radar and a space to accommodate other sensors, such as SIGINT. The RQ–4 will include the following components:

a. The Mission Control Element (MCE) is the RQ–4 Global Hawk ground control station for mission planning, communication management, aircraft and mission control, and image processing and dissemination. It can be either fixed or mobile. In addition to the shelter housing the operator workstations, the MCE includes an optional 6.25 meter Ku-Band antenna assembly, a Tactical Modular Interoperable Surface Terminal, a 12-ton Environmental Control Unit (heating and air conditioning), and two 100 kilowatt electrical generators. The MCE, technical data, and documentation are Unclassified. The MCE may operate at the classified level depending on the classification of the data feeds.

b. The Launch and Recovery Element (LRE) is a subset of the MCE and can be either fixed or mobile. It provides identical functionality for mission planning and air vehicle C2. The launch element contains a mission planning workstation and a C2 workstation. The primary difference between the LRE and MCE is the lack of any wide-band data links or image processing capability within the LRE and navigation equipment at the LRE to provide the precision required for ground operations, take-off, and landing. The LRE, technical data, and documentation are Unclassified.

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 that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–31722 Filed 1–3–13; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–63]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–63 with attached transmittal and policy justification.

Dated: December 31, 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

DEC 21 2012

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 12-63, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $125 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,

FOR William E. Landay, III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 12–63

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:* Government of Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$0 million
Other	$125 million
Total	$125 million

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Very Small Aperture Terminal (VSAT) operations and maintenance services, equipment installation services, upgrade VSAT managed and leased bandwidth, video teleconferencing equipment, 75 VSAT Equipment Suites (consisting of 1.8m VSAT terminals, block up converters (BUCs), low-noise down converters (LNBs), required cables and components, iDirect e8350 modem, network operation and dynamic bandwidth equipment, and iMonitor software), spares and repair parts, tools, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor representative technical support services, and other related elements of logistics and program support.

(iv) Military Department: Army (AAO, Amd #6)

(v) *Prior Related Cases, if any:* FMS Case AAO–6Jun07-$50M

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 21 December 2012

POLICY JUSTIFICATION

Government of Iraq—VSAT Operations and Maintenance Support and Services

The Government of Iraq has requested a possible sale of Very Small Aperture Terminal (VSAT) operations and maintenance services, equipment installation services, upgrade VSAT managed and leased bandwidth, video teleconferencing equipment, 75 VSAT Equipment Suites (consisting of 1.8m VSAT terminals, block up converters (BUCs), low-noise down converters (LNBs), required cables and components, iDirect e8350 modem, network operation and dynamic bandwidth equipment, and iMonitor software), spares and repair parts, tools, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor representative technical support services, and other related elements of logistics and program support. The estimated cost is $125 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. This proposed sale directly supports the Iraqi government and serves the interests of the Iraqi people and the United States.

This proposed sale will continue U.S. support to the development of Iraqi Defense Network (IDN) VSAT terminals. Iraq intends to use these defense articles and services to provide command and control for its armed forces. The purchase of this equipment will enhance the Iraqi military's foundational capabilities, making it a more valuable partner in an important area of the world and supporting its legitimate needs for its own self-defense.

The proposed sale of this support and services will not alter the basic military balance in the region.

The principal contractors will be 3Di Technologies and L–3 Communications Company in Hanover, Maryland. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require U.S. Government or contractor representatives to travel to Iraq for delivery of operations and maintenance services, installation of new sites for each year of required operations and maintenance services, and field services to install and move VSAT sites and training for a period of one year.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2012–31725 Filed 1–3–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 12–12]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 12–12 with attached transmittal and policy justification, and Sensitivity of Technology.

Dated: December 31, 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

DEC 21 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. 12-12, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Turkey for defense articles and services estimated to cost $140 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
4. Section 620C(d)

UNCLASSIFIED

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-1, I hereby certify that the furnishing to Turkey of 117 AIM-9X-2 SIDEWINDER Block II All-Up-Round Missiles, 6 AIM-9X-2 Block II Tactical Guidance Units, 6 Dummy Air Training Missiles, 130 LAU-129 Launchers, containers, missile support and test equipment, provisioning, spare and repair parts, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related logistics support is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, which constitutes a full explanation.

Rose E. Gottemoeller
Acting Under Secretary of State
Arms Control and International
Security

UNCLASSIFIED

BILLING CODE 5001–06–C

Transmittal No. 12–12

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:* Turkey

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$110 million
Other	$30 million
Total	$140 million

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 117 AIM–9X–2 SIDEWINDER Block II All-Up-Round Missiles, 6 AIM–9X–2 Block II Tactical Guidance Units, 6 Dummy Air Training Missiles, 130 LAU–129 Launchers, containers, missile support and test equipment, provisioning, spare and repair parts, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related logistics support.

(iv) *Military Department:* Navy (AHX Amd #4)

(v) *Prior Related Cases, if any:* FMS Case AHX–$50M–28Oct05

(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:* 21 December 2012

POLICY JUSTIFICATION

Turkey—AIM–9X–2 SIDEWINDER Missiles

The Government of Turkey has requested a possible sale of 117 AIM–9X–2 SIDEWINDER Block II All-Up-Round Missiles, 6 AIM–9X–2 Block II Tactical Guidance Units, 6 Dummy Air Training Missiles, 130 LAU–129 Launchers, containers, missile support and test equipment, provisioning, spare and repair parts, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical assistance and other related logistics support. The estimated cost is $140 million.

Turkey is a partner of the United States in ensuring peace and stability in the region. It is vital to the U.S. national interest to assist our North Atlantic Treaty Organization (NATO) ally in developing and maintaining a strong and ready self-defense capability that will contribute to an acceptable military balance in the area. This proposed sale is consistent with those objectives.

The Turkish Air Force is modernizing its fighter aircraft to better support its own air defense needs. The proposed sale of AIM–9X–2 missiles will improve Turkey's capability for self defense, modernization, regional security, and interoperability with the U.S. and other NATO members, making it a more valuable partner in an increasingly important area of the world. Turkey will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this weapon system will not alter the basic military balance in the region.

The prime contractor will be Raytheon Missile Systems Company in Tucson, Arizona. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require travel of U.S. Government or contractor representatives to Turkey on a temporary basis for program technical support and management oversight.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 12–12

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 AIM–9X–2 SIDEWINDER Block II Missile represents a substantial increase in missile acquisition and kinematics performance over the AIM–9M and replaces the AIM–9X–1 Block I missile configuration. The missile includes a high off bore-sight seeker, enhanced countermeasure rejection capability, low drag/high angle of attack airframe and the ability to integrate the Helmet Mounted Cueing System. The software algorithms are the most sensitive portion of the AIM–9X–2 missile. The software continues to be modified via a pre-planned product improvement (P^3I) program in order to improve its counter-countermeasures capabilities. No software source code or algorithms will be released.

2. The AIM–9X–2 will result in the transfer of sensitive technology and information. The equipment, hardware, and documentation are classified Confidential. The software and operational performance are classified Secret. The seeker/guidance control section and the target detector are Confidential and contain sensitive state-of-the-art technology. Manuals and technical documentation that are necessary or support operational use and organizational management are classified up to Secret. Performance and operating logic of the counter-countermeasures circuits are classified Secret. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and similar critical information.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2012–31723 Filed 1–3–13; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 287. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 287 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Mrs. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 286. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 287 are updated rates for Alaska.

Dated: December 31, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		118		228	1/1/2013
ADAK						
01/01 - 12/31	120		79		199	7/1/2003
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	213		119		332	1/1/2013
10/01 - 05/15	99		107		206	1/1/2013
BARROW						
01/01 - 12/31	159		95		254	10/1/2002
BETHEL						
01/01 - 12/31	179		101		280	1/1/2013
BETTLES						
01/01 - 12/31	135		62		197	10/1/2004
CLEAR AB						
01/01 - 12/31	90		82		172	10/1/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/1/2006
COPPER CENTER						
09/16 - 05/14	99		80		179	1/1/2013
05/15 - 09/15	149		85		234	1/1/2013
CORDOVA						
01/01 - 12/31	95		117		212	1/1/2013
CRAIG						
10/01 - 03/31	80		72		152	1/1/2013
04/01 - 09/30	129		77		206	1/1/2013
DEADHORSE						
01/01 - 12/31	170		68		238	8/1/2012
DELTA JUNCTION						
01/01 - 12/31	129		54		183	1/1/2013
DENALI NATIONAL PARK						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 09/30	159		95		254	1/1/2013
10/01 - 04/30	89		89		178	1/1/2013
DILLINGHAM						
05/15 - 10/15	185		111		296	1/1/2011
10/16 - 05/14	169		109		278	1/1/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		102		223	2/1/2012
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	6/1/2007
EIELSON AFB						
09/16 - 05/14	75		88		163	1/1/2013
05/15 - 09/15	154		96		250	1/1/2013
ELFIN COVE						
05/15 - 09/10	175		46		221	1/1/2013
09/11 - 05/14	150		44		194	1/1/2013
ELMENDORF AFB						
05/16 - 09/30	213		119		332	1/1/2013
10/01 - 05/15	99		107		206	1/1/2013
FAIRBANKS						
05/15 - 09/15	154		96		250	1/1/2013
09/16 - 05/14	75		88		163	1/1/2013
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/1/2002
FT. GREELY						
01/01 - 12/31	129		54		183	1/1/2013
FT. RICHARDSON						
10/01 - 05/15	99		107		206	1/1/2013
05/16 - 09/30	213		119		332	1/1/2013
FT. WAINWRIGHT						
05/15 - 09/15	154		96		250	1/1/2013
09/16 - 05/14	75		88		163	1/1/2013
GAMBELL						
01/01 - 12/31	105		39		144	1/1/2011
GLENNALLEN						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/15	- 09/15	149		85		234	1/1/2013
09/16	- 05/14	99		80		179	1/1/2013
HAINES							
01/01	- 12/31	107		101		208	1/1/2011
HEALY							
10/01	- 04/30	89		89		178	1/1/2013
05/01	- 09/30	159		95		254	1/1/2013
HOMER							
05/05	- 09/15	159		103		262	1/1/2013
09/16	- 05/04	89		98		187	1/1/2013
JUNEAU							
05/16	- 09/15	149		100		249	1/1/2013
09/16	- 05/15	135		99		234	1/1/2013
KAKTOVIK							
01/01	- 12/31	165		86		251	10/1/2002
KAVIK CAMP							
01/01	- 12/31	150		69		219	10/1/2002
KENAI-SOLDOTNA							
11/01	- 04/30	79		108		187	1/1/2013
05/01	- 10/31	99		110		209	1/1/2013
KENNICOTT							
01/01	- 12/31	275		109		384	1/1/2013
KETCHIKAN							
10/01	- 04/30	99		85		184	1/1/2013
05/01	- 09/30	135		88		223	1/1/2013
KING SALMON							
05/01	- 10/01	225		91		316	10/1/2002
10/02	- 04/30	125		81		206	10/1/2002
KLAWOCK							
04/01	- 09/30	129		77		206	1/1/2013
10/01	- 03/31	80		72		152	1/1/2013
KODIAK							
10/01	- 04/30	100		88		188	2/1/2012
05/01	- 09/30	152		93		245	2/1/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KOTZEBUE						
01/01 - 12/31	219		115		334	2/1/2012
KULIS AGS						
05/16 - 09/30	213		119		332	1/1/2013
10/01 - 05/15	99		107		206	1/1/2013
MCCARTHY						
01/01 - 12/31	275		109		384	1/1/2013
MCGRATH						
01/01 - 12/31	165		69		234	10/1/2006
MURPHY DOME						
05/15 - 09/15	154		96		250	1/1/2013
09/16 - 05/14	75		88		163	1/1/2013
NOME						
01/01 - 12/31	150		132		282	1/1/2013
NUIQSUT						
01/01 - 12/31	180		53		233	10/1/2002
PETERSBURG						
01/01 - 12/31	110		118		228	1/1/2013
POINT HOPE						
01/01 - 12/31	200		49		249	1/1/2011
POINT LAY						
01/01 - 12/31	225		51		276	8/1/2011
PORT ALEXANDER						
01/01 - 12/31	150		43		193	8/1/2010
PORT ALSWORTH						
01/01 - 12/31	135		88		223	10/1/2002
PRUDHOE BAY						
01/01 - 12/31	170		68		238	1/1/2011
SELDOVIA						
05/05 - 09/15	159		103		262	1/1/2013
09/16 - 05/04	89		98		187	1/1/2013
SEWARD						
10/16 - 04/30	84		85		169	1/1/2013
05/01 - 10/15	174		94		268	1/1/2013

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SITKA-MT. EDGECUMBE							
10/01	- 04/30	169		113		282	1/1/2013
05/01	- 09/30	209		117		326	1/1/2013
SKAGWAY							
05/01	- 09/30	135		88		223	1/1/2013
10/01	- 04/30	99		85		184	1/1/2013
SLANA							
05/01	- 09/30	139		55		194	2/1/2005
10/01	- 04/30	99		55		154	2/1/2005
SPRUCE CAPE							
05/01	- 09/30	152		93		245	2/1/2012
10/01	- 04/30	100		88		188	2/1/2012
ST. GEORGE							
01/01	- 12/31	129		55		184	6/1/2004
TALKEETNA							
01/01	- 12/31	100		89		189	10/1/2002
TANANA							
01/01	- 12/31	150		132		282	1/1/2013
TOK							
10/01	- 05/14	85		84		169	1/1/2013
05/15	- 09/30	95		85		180	1/1/2013
UMIAT							
01/01	- 12/31	350		64		414	2/1/2012
VALDEZ							
05/16	- 09/14	219		121		340	1/1/2013
09/15	- 05/15	139		113		252	1/1/2013
WAINWRIGHT							
01/01	- 12/31	175		83		258	1/1/2011
WASILLA							
05/01	- 09/30	164		103		267	1/1/2013
10/01	- 04/30	96		96		192	1/1/2013
WRANGELL							
05/01	- 09/30	135		88		223	1/1/2013
10/01	- 04/30	99		85		184	1/1/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
YAKUTAT						
01/01 - 12/31	105		94		199	1/1/2011
AMERICAN SAMOA						
AMERICAN SAMOA						
01/01 - 12/31	139		96		235	9/1/2012
GUAM						
GUAM (INCL ALL MIL INSTAL)						
01/01 - 12/31	159		96		255	7/1/2012
HAWAII						
[OTHER]						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
CAMP H M SMITH						
01/01 - 12/31	177		126		303	5/1/2012
EASTPAC NAVAL COMP TELE AREA						
01/01 - 12/31	177		126		303	5/1/2012
FT. DERUSSEY						
01/01 - 12/31	177		126		303	5/1/2012
FT. SHAFTER						
01/01 - 12/31	177		126		303	5/1/2012
HICKAM AFB						
01/01 - 12/31	177		126		303	5/1/2012
HONOLULU						
01/01 - 12/31	177		126		303	5/1/2012
ISLE OF HAWAII: HILO						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
ISLE OF HAWAII: OTHER						
01/01 - 12/31	180		129		309	5/1/2012
ISLE OF KAUAI						
01/01 - 12/31	243		131		374	5/1/2012
ISLE OF MAUI						
01/01 - 12/31	209		137		346	5/1/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ISLE OF OAHU						
01/01 - 12/31	177		126		303	5/1/2012
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01 - 12/31	243		131		374	5/1/2012
KILAUEA MILITARY CAMP						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
LANAI						
01/01 - 12/31	249		155		404	5/1/2012
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		126		303	5/1/2012
MCB HAWAII						
01/01 - 12/31	177		126		303	5/1/2012
MOLOKAI						
01/01 - 12/31	131		89		220	5/1/2012
NAS BARBERS POINT						
01/01 - 12/31	177		126		303	5/1/2012
PEARL HARBOR						
01/01 - 12/31	177		126		303	5/1/2012
SCHOFIELD BARRACKS						
01/01 - 12/31	177		126		303	5/1/2012
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		126		303	5/1/2012
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		68		193	5/1/2012
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	85		76		161	7/1/2012
ROTA						
01/01 - 12/31	130		106		236	7/1/2012
SAIPAN						
01/01 - 12/31	140		87		227	7/1/2012

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TINIAN							
01/01	- 12/31	85		76		161	7/1/2012
PUERTO RICO							
[OTHER]							
01/01	- 12/31	109		112		221	6/1/2012
AGUADILLA							
01/01	- 12/31	124		76		200	10/1/2012
BAYAMON							
01/01	- 12/31	195		128		323	9/1/2010
CAROLINA							
01/01	- 12/31	195		128		323	9/1/2010
CEIBA							
01/01	- 12/31	139		92		231	10/1/2012
CULEBRA							
01/01	- 12/31	150		98		248	3/1/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]							
01/01	- 12/31	139		92		231	10/1/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]							
01/01	- 12/31	195		128		323	9/1/2010
HUMACAO							
01/01	- 12/31	139		92		231	10/1/2012
LUIS MUNOZ MARIN IAP AGS							
01/01	- 12/31	195		128		323	9/1/2010
LUQUILLO							
01/01	- 12/31	139		92		231	10/1/2012
MAYAGUEZ							
01/01	- 12/31	109		112		221	9/1/2010
PONCE							
01/01	- 12/31	149		89		238	9/1/2012
RIO GRANDE							
01/01	- 12/31	169		123		292	6/1/2012
SABANA SECA [INCL ALL MILITARY]							
01/01	- 12/31	195		128		323	9/1/2010

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SAN JUAN & NAV RES STA						
01/01 - 12/31	195		128		323	9/1/2010
VIEQUES						
01/01 - 12/31	175		95		270	3/1/2012
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	5/1/2006
12/15 - 04/14	187		97		284	5/1/2006
ST. JOHN						
04/15 - 12/14	163		98		261	5/1/2006
12/15 - 04/14	220		104		324	5/1/2006
ST. THOMAS						
04/15 - 12/14	240		105		345	5/1/2006
12/15 - 04/14	299		111		410	5/1/2006
WAKE ISLAND						
WAKE ISLAND						
01/01 - 12/31	173		42		215	9/1/2012

[FR Doc. 2012–31699 Filed 1–3–13; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, DOE.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC).

DATES: Monday, January 28, 2013, 9:00 a.m.–5:00 p.m. Tuesday, January 29, 2013, 9:00 a.m.–12:30 p.m.

ADDRESSES: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, Maryland 20852, (301) 822–9200.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: (301) 903–0536

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Monday, January 28, 2013

- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Offices
- Presentation of the NSAC Subcommittee Report on the Implementation of the 2007 Long Range Plan for Nuclear Science
- Present the Office of Science Priority Goal Charge

Tuesday, January 29, 2013

- Continued Discussion of Subcommittee Report and Letter Transmittal
- Public Comment (10-minute rule)

Note: The NSAC Meeting will be broadcast live on the Internet. You may find out how to access this broadcast by going to the following site prior to the start of the meeting: *www.tvworldwide.com/events/doe/130128.* A video record of the meeting, including the presentations that are made, will be archived at this site after the meeting ends:

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, by telephone at: (301) 903–0536 or by email at: *Brenda.May@science.doe.gov.* You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the Committee's Web site at: *http://science.energy.gov/np/nsac* Web site for viewing.

Issued in Washington, DC on December 28, 2012.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2012–31701 Filed 1–3–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, January 28, 2013; 1:00 p.m.–5:00 p.m. Tuesday, January 29, 2013; 8:30 a.m.–4:30 p.m.

ADDRESSES: Double Tree, 2651 Perimeter Parkway, Augusta, GA 30909.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, January 28, 2013

1:00 p.m. Combined Committees Session
5:00 p.m. Adjourn

Tuesday, January 29, 2013

8:30 a.m. Approval of Minutes, Agency Updates
Public Comment Session
Facilities Disposition and Site Remediation Committee Report
Nuclear Materials Committee Report
Public Comment Session
12:30 p.m. Lunch Break
1:30 p.m. Waste Management Committee Report
Administrative Committee Report
Strategic and Legacy Management Committee Report
Public Comment Session
4:30 p.m. Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gerri Flemming at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html.*

Issued at Washington, DC on December 28, 2012.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2012–31702 Filed 1–3–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following electric rate filings:

Filings Instituting Proceedings

Docket Numbers: RP13–416–000.
Applicants: Rockies Express Pipeline LLC.
Description: Rate Schedule FTS and ITS correction to RP13–326 to be effective 12/1/2012.
Filed Date: 12/27/12.
Accession Number: 20121227–5139.
Comments Due: 5 p.m. ET 1/8/13.
Docket Numbers: RP13–417–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Annual Accounting Report filing on 12/28/12 to be effective N/A.
Filed Date: 12/28/12.
Accession Number: 20121228–5045.
Comments Due: 5 p.m. ET 1/9/13.
Docket Numbers: RP13–418–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Annual Flowthrough Crediting Mechanism filing on 12/28/12 to be effective N/A.
Filed Date: 12/28/12.
Accession Number: 20121228–5046.
Comments Due: 5 p.m. ET 1/9/13.
Docket Numbers: RP13–419–000.
Applicants: Midwestern Gas Transmission Company.
Description: Update of Part 8, Section 32 to be effective 1/28/2013.
Filed Date: 12/28/12.
Accession Number: 20121228–5047.
Comments Due: 5 p.m. ET 1/9/13.
Docket Numbers: RP13–420–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Environmental Filing 2012 to be effective 2/1/2013.
Filed Date: 12/28/12.
Accession Number: 20121228–5048.
Comments Due: 5 p.m. ET 1/9/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–234–001.
Applicants: Pine Needle LNG Company, LLC.
Description: Pine Needle LNG Company, LLC. submits tariff filing per 154.203: PN Limit Sec 4 Compliance to be effective N/A.
Filed Date: 12/27/12.
Accession Number: 20121227–5055.
Comments Due: 5 p.m. ET 1/8/13.

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:December 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–31680 Filed 1–3–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–33–000]

ENE (Environment Northeast); Greater Boston Real Estate Board; National Consumer Law Center; NEPOOL Industrial Customer Coalition; v. Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company; New Hampshire Transmission LLC; NSTAR Electric Company; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Inc.; Fitchburg Gas and Electric Light Company; Vermont Transco, LLC; Notice of Complaint

Take notice that on December 27, 2012, pursuant to sections 206 and 306 of the Federal Power Act (FPA) and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, ENE (Environment Northeast), Greater Boston Real Estate Board, National Consumer Law Center, and NEPOOL Industrial Customer Coalition (Complainants) filed a formal complaint against Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company; New Hampshire Transmission LLC; NSTAR Electric Company; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; and Vermont Transco, LLC (Respondents) seeking an order to reduce the 11.14 percent base return on equity (''Base ROE'') used in calculating formula rates for transmission service under the ISO–NE Open Access Transmission Tariff (''OATT'') to a just and reasonable level at 8.7 percent.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials and on parties and the regulatory agencies the Complainants reasonably expect to be affected by this complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 16, 2013.

Dated: December 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–31687 Filed 1–3–13; 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.	Filed date	Presenter or requester
Prohibited:		
1. ER13–3351–000; EL13–21–000	12–2–12	Robert Weisenmiller.[1]
2. EL12–9–000, *et al.*[2]	12–14–12	Kenneth Wiseman.
Exempt:		
1. P–2662–000	12–6–12	Tyrone Williams.[3]
2. ER13–351–000; EL13–21–0003	12–7–12	Hons. Barbara Boxer and Dianne Feinstein.

[1] Email record.
[2] An email record (12/14/2012) and a letter (12/26/2012) were received in the following docket numbers: EL12–9–000; ER12–2331–000; EL11–50–000 and EL12–56–000.
[3] Email record.

Dated: December 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–31686 Filed 1–3–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IS12–203–000]

Enterprise TE Products Pipeline Company LLC; Notice of Settlement Conference

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on January 3, 2013, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a Fax to 202–208–2106 with the required accommodations.

For additional information, please contact James Keegan, *james.keegan@ferc.gov,* 202–502–8158 or Gary Denkinger, *marc.denkinger@ferc.gov,* 202–502–8662.

Dated: December 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–31688 Filed 1–3–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2012–0890, FRL–9766–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recordkeeping and Reporting—Solid Waste Disposal Facilities and Practices

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), Recordkeeping and Reporting—Solid Waste Disposal Facilities and Practices; ''(EPA ICR No. 1381.10, OMB Control No. 2050–0122) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is

currently approved through June 30, 2013. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before March 5, 2013.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2012–0890, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Craig Dufficy, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, Mail Code 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–9037; fax number: (703) 308–8686; email address: *dufficy.craig@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: In order to effectively implement and enforce final changes to 40 CFR Part 258 on a State level, owners/operators of municipal solid waste landfills have to comply with the final reporting and recordkeeping requirements. Respondents include owners or operators of new municipal solid waste landfills (MSWLFs), existing MSWLFs, and lateral expansions of existing MSWLFs. The respondents, in complying with 40 CFR Part 258, are required to record information in the facility operating record, pursuant to § 258.29, as it becomes available. The operating record must be supplied to the State as requested until the end of the post-closure care period of the MSWLF. The information collected will be used by the State Director to confirm owner or operator compliance with the regulations under Part 258. These owners or operators could include Federal, State, and local governments, and private waste management companies.

Form Numbers: None.

Respondents/affected entities: Business or other for-profit, as well as State, local, and Tribal governments.

Respondent's obligation to respond: Mandatory (40 CFR 258.29).

Estimated number of respondents: 3,800.

Frequency of response: On occasion.

Total estimated burden: 204,628 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $ 2,211,000, includes $ 1,831,000 annualized capital or O&M costs (per year).

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: December 20, 2012.

Suzanne Rudzinski,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2012–31728 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9766–3]

California State Motor Vehicle Pollution Control Standards; Urban Buses; Request for Waiver of Preemption; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its emission standards for urban bus engines in a series of rulemakings. The rulemakings at issue took place between 2000 and 2005. Principally, these rulemakings set requirements for California's public transit agencies that operate urban buses and other transit vehicles; additionally, the rulemakings set emission standards for new urban bus engines. CARB requests that EPA grant a waiver of preemption pursuant to section 209(b) of the Clean Air Act for the emission standards and related test procedures. This notice announces that EPA has tentatively scheduled a public hearing to consider California's urban bus regulations, and that EPA is now accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's request on January 30, 2013, at 10:00 a.m. ET. EPA will hold a hearing only if any party notifies EPA by January 17, 2013, expressing interest in presenting the agency with oral testimony. Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the email address noted below. If EPA receives a request for a public hearing, that hearing will be held at 1310 L Street NW., Washington, DC 20005. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket. Any party may submit written comments until March 1, 2013.

By January 25, 2013, any person who plans to attend the hearing may call Kristien Knapp at (202) 343–9949, to learn if a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0745, by one of the following methods:

- *On-Line at http://www.regulations.gov:* Follow the On-Line Instructions for Submitting Comments.

- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2012–0745, U.S. Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

On-Line Instructions for Submitting Comments: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0745. EPA's policy is that all comments we receive will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID No. EPA–HQ–OAR–2012–0745. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open to the public on all federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *http://www.regulations.gov* Web site, enter EPA–HQ–OAR–2012–0745, in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver requests. Included on that page are links to prior waiver and authorization **Federal Register** notices. The page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

FOR FURTHER INFORMATION CONTACT: Kristien G. Knapp, Attorney-Advisor, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. Telephone: (202) 343–9949. Fax: (202) 343–2804. Email: *knapp.kristien@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. California's Urban Bus Regulations

By letter dated November 16, 2009, CARB submitted to EPA its request pursuant to section 209(b) of the Clean Air Act (''CAA'' or ''the Act''), regarding its urban bus regulations.[1] California's urban bus regulations principally set requirements for California's public transit agencies that operate urban buses and other transit vehicles; additionally, the rulemakings set emission standards for new urban bus engines. CARB formally adopted these urban bus regulations during five separate rulemakings that took place between 2000 and 2005: a 2000 rulemaking, a 2002 rulemaking, a 2004 rulemaking, a February 2005 rulemaking, and an October 2005 rulemaking. Collectively, the five rulemakings elevated the stringency of exhaust emission standards and test procedures for heavy-duty urban bus engines and vehicles. The 2000 rulemaking accomplished several feats, including more stringent particulate matter (PM) emission standards for diesel-fueled urban bus engines through the 2006 model year; more stringent mandatory and optional nitrogen oxides (NO_X) and non-methane hydrocarbon (NMHC) standards for diesel-fueled urban bus engines through the 2003 model year; more stringent optional combined NMHC+ NO_X and PM standards for alternatively-fueled urban bus engines through the 2006 model year; more stringent primary emission standards for diesel-fueled urban buses through the 2006 model year; tightening of exhaust emission standards for 2007 and later model year heavy-duty urban diesel engines; and adoption of urban bus test procedures and label specifications. The 2000 rulemaking was formally adopted by CARB on November 22, 2000 and May 29, 2001,[2] and became operative under California law on January 23, 2001 and May 29, 2001, respectively.[3] The 2002 rulemaking allowed for an optional NMHC+ NO_X standard for 2004–2006 model year diesel-fueled urban bus engines when used in exempted transit fleets with commitments to demonstrate advanced NO_X after-treatment technology, and established a certification procedure for hybrid electric buses. The 2002 rulemaking was formally adopted by CARB on September 2, 2003,[4] and became operative under California law on

[1] California Air Resources Board (''CARB''), ''Request for Waiver Action Pursuant to Clean Air Act Section 209(b) for California's Urban Bus Emission Standards,'' November 16, 2009.

[2] CARB, ''Resolution 00–2,'' February 24, 2000; CARB, ''Executive Order G–00–060,'' November 22, 2000; CARB, ''Executive Order G–01–010,'' May 29, 2001.

[3] CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective January 23, 2001; CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective May 29, 2001.

[4] CARB, ''Resolution 02–30,'' October 24, 2002; CARB, ''Executive Order G–03–023,'' September 2, 2003.

November 15, 2003.[5] The 2004 rulemaking added optional exhaust emission standards for diesel-fueled hybrid-electric urban bus engines for authorized transit agencies with NO_X mitigation plans for the 2004–2006 model years. The 2004 rulemaking was formally adopted by CARB on June 24, 2004,[6] and became operative under California law on January 31, 2004.[7] The February 2005 rulemaking clarified the optional standards for hybrid-electric buses that were allowed in the 2004 rulemaking. The February 2005 rulemaking was formally adopted by CARB on February 24, 2005,[8] and became operative under California law on January 31, 2006.[9] The October 2005 rulemaking amended the urban bus standards to align with California's existing exhaust emission standards for heavy-duty diesel engines. The October 2005 rulemaking was formally adopted by CARB on July 28, 2006,[10] and became operative under California law on October 7, 2006.[11] The revisions to emission standards and test procedures resulting from these five sets of amendments were codified at title 13, California Code of Regulations, section 1952.2 et seq., which was later renumbered to section 2023 et seq.[12]

CARB seeks a waiver of preemption pursuant to section 209(b) of the Clean Air Act for the emission standards and related test procedures contained in its urban bus regulations, as amended through 2000 and 2005.

II. Clean Air Act Waivers of Preemption

Section 209(a) of the Clean Air Act preempts states and local governments from setting emission standards for new motor vehicles and engines. It provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Through operation of section 209(b) of the Act, California is able to seek and receive a waiver of section 209(a)'s preemption. Section 209(b)(1) requires a waiver to be granted for any State that had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966,[13] if the State determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards (this is known as California's ''protectiveness determination''). However, no waiver is to be granted if EPA finds that: (A) California's above-noted ''protectiveness determination'' is arbitrary and capricious; [14] (B) California does not need such State standards to meet compelling and extraordinary conditions; [15] or (C) California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.[16] Regarding consistency with section 202(a), EPA reviews California's standards for technological feasibility and evaluates testing and enforcement procedures to determine whether they would be inconsistent with federal test procedures (e.g., if manufacturers would be unable to meet both California and federal test requirements using the same test vehicle).[17]

III. EPA's Request for Comments

EPA is offering the opportunity for a public hearing, and requesting written comment on issues relevant to section 209(b) of the Clean Air Act. Specifically, we request comment on whether: (a) California's determination that its motor vehicle emission standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious, (b) California needs such standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Clean Air Act.

IV. Procedures for Public Participation

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until March 1, 2013. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket No. EPA–HQ–OAR–2012–0745.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as ''Confidential Business Information'' (''CBI''). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed, and according to the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: December 26, 2012.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2012–31717 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

[5] CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective November 15, 2003.

[6] CARB, ''Resolution 04–19,'' June 24, 2004.

[7] CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective January 31, 2004.

[8] CARB, ''Resolution 05–15,'' February 24, 2005.

[9] CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective January 31, 2006.

[10] CARB, ''Resolution 05–47,'' September 15, 2005; CARB, ''Resolution 05–53,'' October 20, 2005; CARB Resolution 05–61,'' October 27, 2005; CARB, ''Executive Order R–05–007,'' July 28, 2006.

[11] CARB, ''Secretary of State Face Sheet and Final Regulation Order,'' effective October 7, 2006.

[12] *See supra* notes 3, 5, 7, 9, and 11.

[13] Because California was the only state to have adopted standards prior to 1966, it is the only state that is qualified to seek and receive a waiver. *See* S.Rep. No. 90–403 at 632 (1967).

[14] CAA section 209(b)(1)(A).

[15] CAA section 209(b)(1)(B).

[16] CAA section 209(b)(1)(C).

[17] *See, e.g.,* 74 FR at 32767 (July 8, 2009); *see also MEMA I,* 627 F.2d at 1126.

ENVIRONMENTAL PROTECTION AGENCY

California State Nonroad Engine Pollution Control Standards; Transport Refrigeration Units; Request for Authorization; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to California's ''Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets and Facilities Where TRUs Operate.'' CARB has asked that

EPA confirm that the TRU amendments either fall within the scope of the authorization EPA granted on January 9, 2009, pursuant to section 209(e) of the Clean Air Act, or are not subject to Clean Air Act preemption. This notice announces that EPA has tentatively scheduled a public hearing to consider California's TRU amendments, and that EPA is now accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's request on January 30, 2013, at 10:00 a.m. ET. EPA will hold a hearing only if any party notifies EPA by January 17, 2013, expressing interest in presenting the agency with oral testimony. Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the email address noted below. If EPA receives a request for a public hearing, that hearing will be held at 1310 L Street NW., Washington, DC 20005. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket. Any party may submit written comments until March 1, 2013.

By January 25, 2013, any person who plans to attend the hearing may call Kristien Knapp at (202) 343–9949, to learn if a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0741, by one of the following methods:

- *On-Line at http://www.regulations.gov:* Follow the On-Line Instructions for Submitting Comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2012–0741, U.S. Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

On-Line Instructions for Submitting Comments: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0741. EPA's policy is that all comments we receive will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through h*ttp://www.regulations.gov,* your email address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID No. EPA–HQ–OAR–2012–0741. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open to the public on all federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the Federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *http://www.regulations.gov* Web site, enter EPA–HQ–OAR–2012–0741, in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver requests. Included on that page are links to prior waiver and authorization **Federal Register** notices. The page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

FOR FURTHER INFORMATION CONTACT: Kristien G. Knapp, Attorney-Advisor, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. Telephone: (202) 343–9949. Fax: (202) 343–2804. Email: *knapp.kristien@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. California's TRU Regulations

By letter dated May 13, 2011, CARB submitted to EPA its request pursuant to section 209(e) of the Clean Air Act (''CAA'' or ''the Act''), regarding its ''Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets and Facilities Where TRUs Operate'' (hereinafter ''CARB's TRU Amendments'').[1] CARB's TRU Amendments accomplish three main objectives: (1) Relax the TRU in-use compliance requirements for all 2003 and some 2004 model year TRUs and TRU generator sets (collectively referred to as ''TRUs''), (2) clarify the operational useful life of TRU flexibility engines, and (3) establish new reporting and recordkeeping requirements for TRU original equipment manufacturers (OEMs). CARB formally adopted the TRU Amendments on February 4, 2011,[2] and they became operative under California law on March 7, 2011. The TRU amendments are codified at title

[1] California Air Resources Board (''CARB''), ''Request for Authorization,'' May 13, 2011.

[2] CARB, ''Resolution 10–39,'' November 18, 2010; CARB, ''Executive Order R–11–001,'' February 2, 2011.

13, California Code of Regulations, section 2477.[3]

EPA granted an authorization for California's initial set of TRU regulations on January 9, 2009, notice of which was published in the **Federal Register** on January 16, 2009.[4] CARB seeks EPA's confirmation that the TRU Amendments either fall within the scope of that previous authorization, pursuant to section 209(e) of the Clean Air Act, or are not subject to Clean Air Act preemption.

II. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts any State, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles. States are also preempted from adopting and enforcing standards and other requirements related to the control of emissions from non-new nonroad engines or vehicles. Section 209(e)(2) requires the Administrator, after notice and opportunity for public hearing, to authorize California to enforce such standards and other requirements, unless EPA makes one of three findings. In addition, other states with attainment plans may adopt and enforce such regulations if the standards, and implementation and enforcement procedures, are identical to California's standards. On July 20, 1994, EPA promulgated a rule that sets forth, among other things, regulations providing the criteria, as found in section 209(e)(2), which EPA must consider before granting any California authorization request for new nonroad engine or vehicle emission standards.[5] EPA later revised these regulations in 1997.[6] As stated in the preamble to the 1994 rule, EPA has historically interpreted the section 209(e)(2)(iii) ''consistency'' inquiry to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[7]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures are inconsistent with section 202(a) if: (1) there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.

If California amends regulations that were previously granted an authorization, EPA can confirm that the amended regulations are within the scope of the previously granted authorization. Such within-the-scope amendments are permissible without a full authorization review if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any ''new issues'' affecting EPA's prior authorizations.

III. EPA's Request for Comments

As stated above, EPA is offering the opportunity for a public hearing, and requesting written comment on issues relevant to a within-the-scope analysis. Specifically, we request comment on: whether California's TRU Amendments (1) Undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (2) affect the consistency of California's requirements with section 209 of the Act, and (3) raise any other new issues affecting EPA's previous waiver or authorization determinations.

Should any party believe that the TRU amendments are not within the scope of the previous TRU authorization, EPA also requests comment on whether the California TRU Amendments meet the criteria for a full authorization. Specifically, we request comment on: (a) Whether CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) whether California needs such standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 209 of the Act.

IV. Procedures for Public Participation

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until March 1, 2013. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket No. EPA–HQ–OAR–2012–0741.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as ''Confidential Business Information'' (''CBI''). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that

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[3] CARB, ''Final Regulation Order for title 13, California Code of Regulations, section 2477.''

[4] 74 FR 3030 (January 16, 2009).

[5] 59 FR 36969 (July 20, 1994).

[6] 62 FR 67733 (December 30, 1997). The applicable regulations, now in 40 CFR part 1074, subpart B, § 1074.105, provide:

(a) The Administrator will grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as otherwise applicable federal standards.

(b) The authorization will not be granted if the Administrator finds that any of the following are true:

(1) California's determination is arbitrary and capricious.

(2) California does not need such standards to meet compelling and extraordinary conditions.

(3) The California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

(c) In considering any request from California to authorize the state to adopt or enforce standards or other requirements relating to the control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower, the Administrator will give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard.

[7] 59 FR 36969 (July 20, 1994).

proprietary information is not inadvertently placed in the public docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed, and according to the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: December 26, 2012.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2012–31720 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9766–2]

California State Nonroad Engine Pollution Control Standards; Off-Highway Recreational Vehicles and Engines; Request for Authorization; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted regulations to amend its Off-Highway Recreational Vehicle and Engines (''OHRV'') Regulations. By letter dated March 24, 2010, CARB submitted a request that EPA authorize these regulations under section 209(e) of the Clean Air Act (CAA), 42 U.S.C. 7543(b). CARB seeks confirmation that certain of the amendments are within the scope of a prior authorization issued by EPA, and that certain of the amendments require and merit a new authorization. This notice announces that EPA has tentatively scheduled a public hearing to consider California's request, and that EPA is now accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's request on January 30, 2013, at 10:00 a.m. at EPA's offices at 1310 L Street NW., Washington, DC 20005. EPA will hold a hearing only if anyone notifies EPA that it will present oral testimony at the hearing. Parties wishing to present oral testimony at the public hearing must provide written notice by January 17, 2013 to Suzanne Bessette at the email address noted below. If EPA does not receive a request for a public hearing, it will not hold a hearing and instead will consider CARB's request based on written submissions to the docket. Any party may submit written comments by March 1, 2013.

By January 25, 2013, any person who plans to attend the hearing may check the following Web page for an update, *http://www.epa.gov/otaq/cafr.htm,* or may call Suzanne Bessette at (734) 214–4703 to learn if a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0742, by one of the following methods:

- *On-Line at http://www.regulations.gov:* Follow the On-Line Instructions for Submitting Comments.
- *Email:* a-and-r-docket@epa.gov.
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2012–0742, U.S. Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

On-Line Instructions for Submitting Comments: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0742. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID No. EPA–HQ–OAR–2012–0742. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open to the public on all federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *http://www.regulations.gov* Web site, enter EPA–HQ–OAR–2012–0742 in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to several of the prior **Federal Register** notices which are cited

throughout today's notice; the page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

FOR FURTHER INFORMATION CONTACT: Suzanne Bessette, Attorney-Advisor, Office of Transportation and Air Quality, Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4703. Fax: (734) 214–4053. Email address: *Bessette.Suzanne@epa.gov. mailto:Dickinson.David@EPA.GOV.*

SUPPLEMENTARY INFORMATION:

I. CARB's Prior OHRV Authorization, Within-the-Scope Requests, and New Requests

In 1995, the California Air Resources Board (''CARB'') requested that EPA authorize California's exhaust emission standards and test procedures for nonroad recreational vehicles and engines (''OHRVs''). EPA authorized these regulations in 1996.[1] CARB's March 24, 2010, letter to the Administrator notified EPA that CARB has adopted a number of amendments to its 1995 OHRV regulations. CARB adopted the first amendments in 1999, a second set of amendments in 2003, and the latest amendments in 2006. CARB requested that EPA authorize each of these three amendment packages in letters dated March 24, 2000, November 19, 2004, and March 24, 2010, respectively. The March 24, 2010 request explicitly incorporates the previous two requests, and EPA intends to consider all three requests concurrently.

The 1999 OHRV amendments did not change the numerical exhaust emission standards, but added a new compliance category so that vehicles not meeting the OHRV emissions standards could be certified subject to use restrictions (i.e., use in specified areas during specified times of the year). Non-emissions-compliant OHRVs would be identified with a red sticker or ''tag,'' and emissions-compliant OHRVs would be identified with a green sticker. The amendments also added ATVs over 600 lbs to the existing definition of ATV and removed the competition vehicle exclusion provision. CARB requested a within-the-scope determination for the red-tag program and for the removal of the competition exclusion, and a new authorization for the addition of ATVs over 600 lbs.

According to CARB, the goal of the 1999 amendments was to provide economic relief to vehicle dealers in California who were contractually bound to sell products that did not met the emission standards established in 1994.[2] Prior to the amendments, two-stroke off-highway motorcycles could only be sold as ''competition'' models, and their use was limited to closed-course competitions. Following the amendments, such vehicles would be ''red-tagged'' and allowed to operate during certain times in certain areas. The amendments provided for noncompliant, i.e., red-tagged, vehicles to be certified and sold in California and to be operated in two situations. First, in ''unlimited use areas,'' which are located in regions classified as in attainment for the State's one-hour ozone air quality standard, non-emission-compliant OHRVs could be used year-round. Second, in ''limited use areas,'' which are located in regions classified as nonattainment for the one-hour ozone air quality standard, non-emission-compliant OHRVs could be used only during ''riding seasons'' specified for each area. The riding seasons in limited use areas were intended to restrict non-emission-compliant vehicles from operating during peak ozone periods. Out of more than 100 designated riding areas, approximately one-third were unlimited use areas.[3] The vast majority of the riding areas are on public lands managed by the California Department of Parks and Recreation, the United States Forest Service, and the United States Bureau of Land Management. CARB predicted that the red tag program would cause higher emissions and a ''possible minor impact on PM or toxics'' in unlimited use areas, limited use areas during non-peak seasons, and on a state-wide average; and predicted lower emissions in limited use areas during peak seasons.[4]

The 2003 amendment modified the OHRV regulations to indicate that riding season use restrictions would begin with the 2003 model year. The request letter regarding this amendment stated that the amendment was needed to correct the ''practical delay'' in enforcement of the 1999 red-tag amendment.[5] CARB sought a within-the-scope finding for this amendment.[6] CARB also reaffirmed its approval of its 1999 amendments, analyzing them in comparison to the later federal OHRV regulations promulgated in 2002.[7]

The 2006 amendments made three further changes to California's OHRV regulations. First, they added evaporative emissions standards for OHRVs aligned with federal standards for 2008 and later model year vehicles. Second, the amendments reclassified sand cars, off-road utility vehicles and off-road sport vehicles as OHRVs, which is aligned with the federal classification of these vehicles. Each of these vehicles had previously been regulated under other federally-approved California regulations as small off-road or large off-road spark-ignition engines. The amendment set emissions standards for these three additional classes of vehicles. Third, the list of riding areas and riding seasons was amended.

CARB's 2010 request regarding the 2006 amendments sought (1) A new authorization for the evaporative emissions standard, (2) a within-the-scope determination for the reclassification of sand cars, off-road sport vehicles and off-road utility vehicles and (3) a declaration that the riding areas and riding seasons amendment does not require EPA authorization because the list is an ''operational control'' that cannot be federally preempted, pursuant to Clean Air Act section 209(d). California also requested that in the alternative, the riding season amendments be considered within the scope of the 1996 authorization. Finally, the 2010 letter requested that EPA concurrently consider and render a decision on the pending 1999 and 2003 amendments authorization requests.

II. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Clean Air Act prohibits States and local governments from adopting or attempting to enforce any standard or requirement relating to the control of emissions from new nonroad vehicles or engines. The Administrator must authorize California to enforce its own standards upon making specific findings, detailed below. Section 209(d) precludes federal preemption of state standards that ''control, regulate, or restrict the use,

[1] California State Nonroad Engine and Vehicle Pollution Control Standards; Authorization of State Standards; Notice of Decision, 61 FR 69093 (December 31, 1996).

[2] California Air Resources Board (''CARB''), Request for Authorization, March 24, 2000, at 2.

[3] CARB, Initial Statement of Reasons, Public Hearing to Consider Amendments to the California Regulations for New 1997 and Later Off-Highway Recreational Vehicles and Engines, October 23, 1998, at 6.

[4] *Id.* at 8.

[5] CARB, Request for Authorization, November 19, 2004, at 1.

[6] At the same time, CARB argued that future amendments of riding seasons and riding areas should not be subject to EPA approval, because they should be treated as ''operational controls'' not preempted under section 209(d) of the Clean Air Act. *Id.* at note 1.

[7] Prior to 2002, there were no federal emissions standards for OHRVs. The federal regulations promulgated in 2002 were codified at 40 CFR part 1051, *see* 67 FR 68242 (November 8, 2002), and later amended in 2008, *see* 73 FR 59034 (October 8, 2008).

operation, or movement of registered or licensed motor vehicles.'' State laws governing use, operation, or movement of motor vehicles do not, therefore, require federal authorization.

A. Criteria for New Authorization Determinations

Section 209(e)(1) of the Clean Air Act preempts states from regulating (subparagraph A) new engines smaller than 175 horsepower that are used in construction equipment or vehicles or farm equipment or vehicles and (subparagraph B) new locomotives or engines used in locomotives. Section 209(e)(2)(A) requires the Administrator to grant California authorization to adopt and enforce its own standards for new nonroad engines not included in subparagraphs (A) and (B) of paragraph (1), under certain circumstances:

> [* * *] the Administrator shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. Authorization shall not be granted, however, if the Administrator finds that (i) The determination of the state is arbitrary and capricious, (ii) the state does not need the state standards to meet compelling and extraordinary conditions, or (iii) the state standards and accompanying enforcement procedures are not consistent with this section.[8]

EPA has historically interpreted the section 209(e)(2)(iii) ''consistency'' inquiry to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[9] In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures are inconsistent with section 202(a) if: (1) there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.[10]

B. Criteria for Within-the-Scope Determinations

When California makes a minor amendment to regulations that EPA has previously authorized, EPA can confirm that the amendment is within the scope of the previously granted authorization. In this situation, EPA does not typically go through the full analysis for a new request, but instead grants authorization by reference to the analysis and approval of the original authorization. A within-the-scope amendment is permissible if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any ''new issues'' affecting EPA's prior authorizations.

III. Request for Comment

EPA invites public comment on CARB's entire request, including but not limited to the following issues.

A. 1999 Amendments

First, should California's 1999 OHRV amendments, specifically the provision for certification of OHRVs that do not meet the emissions criteria (the ''red tag'' amendment) and the removal of the competition exemption, be considered under the within-the-scope analysis or should they be considered under the ''new'' authorization criteria? If those amendments should be considered as a within-the-scope request, do they meet the criteria for EPA to grant a within-the-scope confirmation? Alternatively, if the ''red tag'' amendment and removal of the competition exemption should not be considered under the within-the-scope analysis, or in the event that EPA does not determine they are within-the-scope of the previous authorization, do they meet the criteria for making a new authorization determination?

Second, does the removal of the 600 lb weight limitation in the definition of ''ATV'' meet the criteria for making a new authorization determination?

B. 2003 Amendment

Should the amendment limiting the red tag program to model years 2003 and later be under the within-the-scope criteria, and if so, does it meet the within-the-scope criteria for authorization? To the extent that the 2003 amendment should be treated as a new authorization request, does it meet the criteria for a new authorization?

C. 2006 Amendments

First, does the amendment setting evaporative emissions standards for OHRVs meet the criteria for new authorizations? Second, does the amendment reclassifying sand cars, off-road sport vehicles and off-road utility vehicles as OHRVs fall within-the-scope of the original (1996) authorization? Third, does the amendment altering the list of riding areas and riding seasons require federal authorization review, or is it not federally preempted, pursuant to CAA § 209(d)? If it is preempted and therefore requires federal approval, does the amended list of riding areas and seasons fall within-the-scope of the original (1996) authorization?

IV. Procedures for Public Participation

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until March 1, 2013. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket No. EPA–HQ–OAR–2012–0742.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as ''Confidential Business Information'' (''CBI''). If a person

[8] 40 CFR 1074.105.

[9] 59 FR 36969 (July 20, 1994).

[10] To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet the state and the Federal requirements with the same test vehicle in the course of the same test. 43 FR 32182 (July 25, 1978).

making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed, and according to the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: December 26, 2012.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2012–31719 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9006–9]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements.

Filed 12/24/2012 through 12/28/2012.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*.

SUPPLEMENTARY INFORMATION: As of October 1, 2012, EPA will not accept paper copies or CDs of EISs for filing purposes; all submissions on or after October 1, 2012 must be made through e-NEPA.

While this system eliminates the need to submit paper or CD copies to EPA to meet filing requirements, electronic submission does not change requirements for distribution of EISs for public review and comment. To begin using e-NEPA, you must first register with EPA's electronic reporting site—*https://cdx.epa.gov/epa_home.asp*

EIS No. 20120402, Draft EIS, FHWA, CA, State Route 58 (SR–58) Hinkley Expressway Project, Grade Separate, Widen, and Realign, San Bernardino County, CA, Comment Period Ends: 02/19/2013, Contact: James Shankel 909–383–6379.

EIS No. 20120403, Draft EIS, FHWA, ID, US–95 Thorncreek Road to Moscow, from Milepost 337.67 to Milepost 344.00, Latah County, ID, Comment Period Ends: 02/22/2013, Contact: John A. Perry 208–334–9180 extension 116.

EIS No. 20120404, Draft EIS, BLM, WA, Vantage to Pomona Heights 230 kV Transmission Line Project, Grant, Brenton, Kittitas, and Yakima Counties, WA, Comment Period Ends: 02/19/2013, Contact: William Schurger 509–665–2100.

EIS No. 20120405, Revised Draft EIS, USACE, LA, Morganza to the Gulf of Mexico, Hurricane and Storm Damage Risk Reduction System Project, Improvements and Changes, Terrebonne Parish and Lafourche Parish, LA, Comment Period Ends: 02/19/2013, Contact: Nathan Dayan 504–862–2530.

EIS No. 20120406, Final EIS, USFWS, DE, Prime Hook National Wildlife Refuge, Development of a Comprehensive Conservation Plan, Milton, DE, Review Period Ends: 02/04/2013, Contact: Thomas Bonetti 413–253–8307.

Amended Notices

EIS No. 20120395, Draft EIS, USFS, SC, AP Loblolly Pine Removal and Restoration Project, Andrew Pickens Ranger District, Sumter National Forest, Oconee County, SC, Comment Period Ends: 02/13/2013, Contact: Victor Wyant 864–638–9568 Revision to FR Notice Published 12/31/2012; Correcting Project State Location from CA to SC.

Dated: December 31, 2012.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–31744 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9765–7]

Public Notice of Proposed Reissuance of the NPDES General Permits for Facilities/Operations That Generate, Treat, and/or Use/Dispose of Sewage Sludge by Means of Land Application, Landfill, and Surface Disposal in the EPA Region 8

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to reissue NPDES general permits and request for comments.

SUMMARY: Region 8 of the EPA is hereby giving notice of its tentative determination to reissue National Pollutant Discharge Elimination System (NPDES) general permits for facilities or operations that generate, treat, and/or use/dispose of sewage sludge by means of land application, landfill, and surface disposal in the States of CO, MT, ND, and WY and in Indian country in the States of CO, MT, ND, SD, WY and UT (except for the Goshute Indian Reservation and the Navajo Indian Reservation).

DATES: Public comments on this proposal must be received, in writing, on or before February 19, 2013.

ADDRESSES: Public comments should be sent to: WASTEWATER UNIT (8P–W–WW); ATTENTION: BIOSOLIDS PROGRAM; U.S. EPA, REGION 8; 1595 WYNKOOP STREET; DENVER, CO 80202–1129.

FOR FURTHER INFORMATION CONTACT: Copies of the draft permit and Fact Sheet may be downloaded from the EPA Region 8 web page at *http://www.epa.gov/region8/water/biosolids/documents.html*. For a printed copy of the draft permit and Fact Sheet, please write Bob Brobst at the above address or telephone (303) 312–6129. Questions regarding the specific permit requirements may be directed to Bob Brobst, telephone (303) 312–6129.

Public Comment Period: Public comments are invited. Comments must be written and must be received by no later than February 19, 2013. Comments should be sent to: WASTEWATER UNIT (8P–W–WW); ATTENTION: BIOSOLIDS PROGRAM; U.S. EPA, REGION 8; 1595 WYNKOOP STREET; DENVER, CO 80202–1129. Each comment should cite the page number and, where possible, the section(s) and/or paragraph(s) in the draft permit or Fact Sheet to which each comment refers. Commenters should use a separate paragraph for each issue discussed.

SUPPLEMENTARY INFORMATION: On June 21, 2000 and September 21, 2000, U.S. District Judge Donald W. Molloy issued orders stating that until all necessary total maximum daily loads under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the EPA is not to issue any new permits or increase permitted discharges under the NPDES program. (The orders were issued in the lawsuit *Friends of the Wild Swan, Inc., et al.,* v. *U.S. E.P.A., et al.,* CV 97–35–M–DWM, District of Montana, Missoula Division.) The EPA finds that the reissuance of this proposed general permit does not conflict with this order, because (1) the proposed permit would not authorize any point source discharges and (2) as discussed under the ''Protection of Public Health and The Environment'' section of the Fact Sheet for the general permits, the use and/or disposal of sewage sludge in compliance with the conditions of this permit is not likely to have any adverse effect on any waterbody in Montana that has been listed under Section 303(d) of the Clean Water Act. If any member of the public believes that the EPA should interpret the District Court's decision otherwise, the EPA requests that this issue be brought to its attention during the public comment period on this proposed permit.

Since these permits do not involve discharges to waters of the United States, certification under § 401(a)(1) of the Clean Water Act is not necessary for the issuance of these permits and certification will not be requested.

Region 8 is proposing to continue to use general permits instead of individual permits for permitting such sewage sludge related activities in order to reduce the Region's administrative burden of issuing separate individual permits. The renewal permits and fact sheets are very similar to the previous permits and fact sheets. Minor editing was done throughout the permits and fact sheets to correct typographic errors, update the list of the tribal environmental contacts, and some wording changes were made to provide clarification. The only significant changes made to the permits and fact sheets were: (1) References to Biosolids Data Management System (BDMS) was removed as it is no longer compatible with current computer systems; (2) In Table 12 several antiquated analytical methods were removed from the list of acceptable analytical methods to be used in the analysis of sewage sludge. These methods may still be used with permission of the permitting authority; and (3) In Part 5.1.1.2.8 of the landfilling part of the permit, the requirement to do Part 4.1.4 of the permit was added for when sewage sludge is used in the final cover of the landfill. The purpose is to require agronomic soil sampling for calculating the proper amount of sewage sludge to be utilized in the establishment/maintenance of vegetation on the final cover of the landfill. The administrative burden for most of the regulated sources is expected to be less under the general permits than with individual permits, and it will be much quicker to obtain permit coverage with general permits than with individual permits. The substantive permit requirements would be essentially the same with an individual permit or under the general permit. Facilities or operations that incinerate sewage sludge are not eligible for coverage under these general permits and must apply for an individual permit. Wastewater lagoon systems that are not using/disposing of sewage sludge do not need to apply for permit coverage unless notified by the permit issuing authority. The deadlines for applying for coverage under the general permits are given in the permits and the Fact Sheet. Facilities/operations that had coverage under the previous general permit and have submitted a timely request for coverage under this renewal permit are covered automatically under this permit unless the permit issuing authority requires the submittal of a new notice of intent (NOI).

On February 19, 1993, (58 FR 9248,) the EPA promulgated ''Standards for the Use or Disposal of Sewage Sludge'' (40 CFR part 503) and made revisions to the NPDES regulations to include the permitting of facilities/operations that generate, treat, and/or use/dispose of sewage sludge. The 503 regulations were amended on August 4, 1999 (64 FR 42551).

The States of South Dakota and Utah currently are the only States in Region 8 that have been authorized to administer the biosolids (sludge) program. It is proposed that the EPA general permits be reissued for facilities or operations that generate, treat, and/or use/dispose of sewage sludge by means of land application, landfill, and surface disposal within the following areas:

State	Permit No.	Area covered by the general permit
Colorado	COG650000	State of Colorado except for Federal Facilities and Indian country.
	COG651000	Indian country within the State of Colorado and the portions of the Ute Mountain Indian Reservation located in New Mexico and in Utah.
	COG652000	Federal Facilities in the State of Colorado, except those located in Indian country, which are covered under permit COG51000.
Montana	MTG650000	State of Montana except for Indian country.
	MTG651000	Indian country in the State of Montana.
North Dakota	NDG650000	State of North Dakota except for Indian country.
	NDG651000	Indian country within the State of North Dakota (except for Indian country located within the former boundaries of the Lake Traverse Indian Reservation, which are covered under permit SDG651000) and that portion of the Standing Rock Indian Reservation located in South Dakota.
South Dakota	SDG651000	Indian country within the State of South Dakota (except for the Standing Rock Indian Reservation, which is covered under permit NDG651000), that portion of the Pine Ridge Indian Reservation located in Nebraska, and Indian country located in North Dakota within the former boundaries of the Lake Traverse Indian Reservation.
Utah	UTG651000	Indian country within the State of Utah except for the Goshute Indian Reservation, Navajo Nation, and Ute Mountain Indian Reservation (which is covered under permit COG651000).
Wyoming	WYG650000	State of Wyoming except for Indian country.
	WYG651000	Indian country within the State of Wyoming.

The States of South Dakota and Utah have been authorized permitting authority for sewage sludge, therefore the EPA's general permits will be reissued only for Indian country in those States. The general permit for Indian country in Utah does not include the portions of the Goshute Indian Reservation and the Navajo Nation in Utah because the permitting activities for these reservations are done by Region 9 of the EPA. The State of Colorado has not been authorized permitting authority for Federal facilities, so a general permit is proposed for Federal facilities not located in Indian country.

Authorization for use/disposal of sewage sludge under the general permits may be for one of the following three categories: Category 1—Facilities/operations that generate and/or partially treat sewage sludge, but do not use/dispose of sewage sludge; Category 2—Facilities/operations that use/dispose of sewage sludge and may also generate and/or treat sewage sludge; and Category 3—Wastewater lagoon systems that need to land apply sewage sludge on an occasional, restricted basis. Authorization for use/disposal of sewage sludge under the general permit will be limited to one of the three categories, but authorization may be granted to one or more subcategories under Category 2. In applying for authorization for use/disposal of sewage sludge under the general permit, the applicant will be required to specify under which category or subcategory(s) authorization is being requested. However, the permit issuing authority will have the final determination as to which category or subcategory(s) the authorization will be granted. The requirements in the permit for the use/disposal of sewage sludge are based primarily on 40 CFR Part 503.

Other Legal Requirements

Economic Impact (Executive Order 12866): The EPA has determined that the issuance of this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735 (October 4, 1993)) and is therefore not subject to formal OMB review prior to proposal.

Paperwork Reduction Act: The EPA has reviewed the requirements imposed on regulated facilities in these proposed general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. § 501 et seq. The information collection requirements of these permits have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., as amended by the Small Business regulatory Enforcement Fairness Act (SBREFA): The RFA requires that the EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit proposed today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the RFA.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' defined to be the same as ''rules'' subject to the RFA) on tribal, state, local governments and the private sector. The permit proposed today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of the UMRA.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 17, 2012.

Derrith R. Watchman-Moore,

Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.

[FR Doc. 2012–31716 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9767–6; CERCLA–04–2012–3780]

Ellman Battery Superfund Site; Orlando, Orange County, FL; Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: Under 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into an Ability To Pay settlement to recover outstanding cost from two parties concerning a previous Removal Action at the Ellman Battery Superfund Site located in Orlando, Orange County, Florida.

DATES: The Agency will consider public comments on the settlement until February 4, 2013. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments by Site name Ellman Battery Superfund Site by one of the following methods:

- *www.epa.gov/region4/superfund/programs/enforcement/enforcement.html.*
- *Email. Painter.Paula@epa.gov.*
- U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: December 10, 2012.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. 2012–31733 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9767–7; CERCLA–04–2013–3752]

Leonard Chemical Superfund Site; Catawba, York County, SC; Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement to recover outstanding cost from three parties who did not participate in a previous Consent Decree to perform a Remedial Action at the Leonard Chemical Superfund Site located in Catawba, York County, South Carolina.

DATES: The Agency will consider public comments on the settlement until February 4, 2013. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments by Site name Leonard Chemical Superfund Site by one of the following methods:

- *www.epa.gov/region4/superfund/programs/enforcement/enforcement.html*
- *Email. Painter.Paula@epa.gov*

• U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: December 7, 2012.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. 2012–31731 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9767–1]

State Program Requirements; Approval of Application To Administer Partial National Pollutant Discharge Elimination Program; Oklahoma

AGENCY: Environmental Protection Agency.

ACTION: Approval of Oklahoma Department of Agriculture, Food and Forestry's (ODAFF) Agricultural Pollutant Discharge Elimination System program under the Clean Water Act.

SUMMARY: On December 20, 2012, the Regional Administrator for the Environmental Protection Agency, Region 6 (EPA) approved the request of the State of Oklahoma for authorization of the Agriculture Pollutant Discharge Elimination System (AgPDES) program pursuant to Section 402(b) of the Clean Water Act (CWA or ''the Act''). The AgPDES program will be administered by the Oklahoma Department of Agriculture, Food and Forestry (ODAFF) and is a major category partial National Pollutant Discharge Elimination System (NPDES) permit program under Section 402(n)(3) of the Act for all discharges of pollutants into waters of the United States within ODAFF's jurisdiction.

DATES: *Effective Date:* Pursuant to 40 CFR 123.61(c), the AgPDES program was approved and became effective on December 20, 2012. As of the date of program approval, NPDES permitting authority for those discharges subject to the AgPDES program transferred from EPA to ODAFF.

To View or Obtain Copies of Documents: Copies of ODAFF's program approval submission (referred to throughout this document as ODAFF's application) and all other documents in the Administrative Record are available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202.

A copy of ODAFF's application is available online at the EPA Region 6 web page: *http://www.epa.gov/region6/water/npdes/ok-daff/index.html* A paper copy of part of all of the State's application or any other documents in the Administrative Record may be obtained from EPA Region 6 in Dallas for a cost of .15 cents per page.

FOR FURTHER INFORMATION CONTACT: Ms. Denise Hamilton at the EPA address listed above or by calling (214) 665–2775, FAX (214) 665–2191, email: *Hamilton.Denise@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 402 of the CWA created the NPDES program under which EPA may issue permits for the point source discharge of pollutants to waters of the United States under conditions required by the Act. Section 402(b) requires EPA to authorize a State to administer an equivalent state program upon the Governor's request, provided the State has appropriate legal authority and a program sufficient to meet the Act's requirements. Major category partial permit program approval is provided for under section 402(n)(3) of the CWA. Pursuant to that Section, EPA may approve a partial permit program covering a major category of a State's discharges if the program represents a complete permit program and covers all of the discharges under the jurisdiction of the agency seeking approval, and if EPA determines that the partial program represents a significant and identifiable part of the State program required by Section 402(b) of the Act. The Oklahoma discharges subject to regulation under the federal NPDES program and the AgPDES program administered by ODAFF are discharges associated with concentrated animal feeding operations (''CAFO''), discharges from the application of biological pesticides or chemical pesticides that leave a residue, discharges from silviculture activities, and discharges of storm water from agricultural activities. ODAFF does not have jurisdiction over all discharges within the State of Oklahoma. A large portion of the State's discharges are covered by the Oklahoma Department of Environmental Quality's (ODEQ's) approved NPDES program. EPA retains jurisdiction over discharges to Indian Country, as defined in 18 U.S.C. 1151, and over discharges under the jurisdiction of the Oklahoma Corporation Commission.

On August 16, 2012, the Governor of Oklahoma requested NPDES major category partial permit program approval and submitted, in accordance with 40 CFR 123.21 a program description (including funding, personnel requirements and organization, and permit and enforcement procedures), a Statement of Legal Authority, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA Region 6 and the Commissioner of Agriculture for ODAFF. ODAFF seeks permitting and enforcement authority for all discharges within its jurisdiction. At the request of EPA, ODAFF made revisions to several of the program submittal documents and the last of these revisions was received by EPA on September 7, 2012. EPA determined that ODAFF's August 16th application for partial program approval, as amended September 7, 2012, was complete under 40 CFR 123.21 and a letter of completeness was sent to ODAFF on September 14, 2012. On September 24, 2012, notice of the State's application was published in the **Federal Register** (77 FR 58830), announcing a 45 day public comment period. Notice was also published in the Daily Oklahoman and Tulsa World newspapers on September 25, 2012. Both an informal public meeting and a public hearing were held in Oklahoma City, Oklahoma on October 25, 2012. The public meeting included a presentation on Oklahoma's request for AgPDES program approval and a question and answer session. Oral and written comments for the official record were accepted at the public hearing, which was held in accordance with 40 CFR 124.12.

EPA was required to approve ODAFF's application within 90 days of submittal of a complete submission unless the submittal did not meet the requirements of Section 402(b) of the Act and EPA regulations, or EPA and ODAFF jointly agreed to extend this deadline. (See 40 CFR 123.2l (d). By email dated December 4, 2012, EPA and ODAFF extended the statutory review period until December 20, 2012.

To obtain program approval, ODAFF was required to show among other things that it has authority to issue permits that comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and opportunity for a hearing on each proposed permit.

Authority to approve State programs is provided to EPA pursuant to Section 402(b) of the CWA. The regulatory requirements for state program approval are set forth in 40 CFR part 123. EPA's decision to approve the AgPDES program is based on the requirements of CWA § 402 and 40 CFR part 123. In making its decision, EPA considered all comments and issues raised during the public comment period, including those

raised at the public hearing. A copy of the Region's responses to comments and ODAFF's program submittal documents are available on the EPA Region 6 Internet site: *http://www.epa.gov/region6/water/npdes/ok-daff/index.html.* The comments and public hearing record are contained in the administrative record supporting this notice.

Scope, Transfer of NPDES Authority, and Summary of the AgPDES Program

A. Scope of the Partial Program

The AgPDES program is a major category partial permit program in conformance with the requirements of Section 402(n)(3) of the CWA. The program is a complete permit program for all discharges under ODAFF's jurisdiction and represents a significant and identifiable part of the state program required by § 402(b) of the CWA. The Oklahoma discharges subject to regulation under the federal NPDES program and the AgPDES program administered by ODAFF are discharges associated with concentrated animal feeding operations (''CAFO''), discharges from the application of biological pesticides or chemical pesticides that leave a residue, discharges from silviculture activities, and discharges of storm water from agricultural activities.

ODAFF has jurisdiction over all matters affecting agriculture that have not been expressly delegated to another state or federal agency, as set out in the Oklahoma Agriculture Code, and is responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility. The Oklahoma Environmental Quality Act gives ODAFF environmental jurisdiction over point source discharges from agricultural crop production and agricultural services. It also gives the Agency environmental jurisdiction specific to the application of pesticides. ODAFF does not have jurisdiction over storm water discharges associated with industrial activity (as defined at 40 CFR 122.26(b)(14) at facilities whose primary industrial activity is storage of grain, feed seed, fertilizer, and agriculture chemicals (e.g., SIC code 4121) and are thus required by federal regulations to have a storm water permit. However, ODAFF's jurisdiction includes all discharges at facilities regulated by ODAFF that only incidentally store grain, feed seed, fertilizer, and agriculture chemicals to support the primary activity of the facility (e.g., feed storage at a CAFO). ODAFF has jurisdiction to regulate discharges resulting from agricultural and non-agricultural applications of pesticides; except for discharges from industrial processes, municipal treatment works, and municipal and industrial storm water, for which the Oklahoma Environmental Quality Act has expressly delegated jurisdiction to the Oklahoma Department of Environmental Quality (ODEQ). ODAFF also has jurisdiction to regulate discharges resulting from silvicultural discharges related to tree growing, planting management, log transport and log storage, and other activities, except those related to wood preservation and processing regulated pursuant to 40 CFR part 429 (Timber Products Processing) and part 436 (Mineral Mining and Processing), which are regulated by ODEQ.

Activities that are not within ODAFF's environmental jurisdiction include commercial manufacturers of fertilizers, grain and feed products, and chemicals; manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products; slaughterhouses, except for feedlots at those facilities; and aquaculture and fish hatcheries. These exceptions to the Agency's jurisdiction include, but are not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

ODAFF did not seek authority to regulate discharges to Indian Country, as defined in 18 U.S.C. 1151. EPA retains NPDES permitting authority over Indian Country in the State of Oklahoma.

B. Transfer of NPDES Authority and Pending Actions

Authority for all NPDES permitting activities within the scope of ODAFF's jurisdiction have been transferred to the State. EPA retains on a permanent basis its authority under section 402(d) of the CWA to object to AgPDES permits proposed by ODAFF, and if the objections are not resolved, to issue federal NPDES permits for those discharges. EPA also retains on a permanent basis independent enforcement authority to address civil and/or criminal CWA violations under §§ 309 and 402(i) of the Act and to file federal enforcement actions in those instances in which EPA determines the State has not taken timely or appropriate enforcement action.

Pursuant to the MOA between EPA and ODAFF, ODAFF has taken over administration of EPA-issued general permits for those discharges under its jurisdiction while EPA retains administration of general permits for those discharges remaining under EPA jurisdiction. Dischargers remaining under EPA jurisdiction include those discharges to waters in Indian Country and those discharges under the jurisdiction of the Oklahoma Corporation Commission. The transfer of EPA-issued permits is described in Section IV.B of the MOA.

The CAFO general permit OKG010000 (discharges from CAFOs) is being transferred to ODAFF with no discharges authorized by that permit remaining under EPA jurisdiction. OKR12000F (Construction General Permit—storm water discharges associated with industrial activity), OKR05000F (Multi-Sector General Permit—storm water associated with construction activities), and OKG87#### (Pesticides General Permit—discharges associated with application of pesticides to waters of the United States) are being partially transferred to ODAFF with EPA retaining the permits for discharges remaining under EPA jurisdiction. For general permits OKR05000F and OKR12000F, EPA will continue to administer the permit for discharges under the jurisdiction of the OCC. For general permit OKG87####, EPA will continue to administer the permit for discharges to Indian Country. Descriptions of the scope of coverage in general permits OKG87####, OKR05000F and OKR12000F are being changed to reflect the discharges still being permitted by EPA. ODAFF is modifying the permit scope of coverage, Notice of Intent, and reporting requirements to reflect their assumption of these permits for those discharges under the new AgPDES program.

Responsiveness Summary

On September 24, 2012, notice of the State's application was published in the **Federal Register** (77 FR 58830), announcing a 45 day public comment period. EPA Region 6 has considered and prepared written responses to all comments received. In response to comments received and for the sake of clarification, several wording changes have been to the Memorandum of Agreement between EPA and ODAFF. A revision to Table 3–1 of the Enforcement Management System, Chapter 3, has also been made for the sake of clarification. A copy of the Region's responses to comments and the program documents may be obtained from the EPA Region 6 Internet site: *http://www.epa.gov/region6/water/npdes/ok-daff/index.html* Changes made to the MOA and to Table 3–1 of the Enforcement Management System as a

result of comments are marked in redline/strikeout.

I hereby provide public notice of EPA's approval of the State of Oklahoma's request for authorization for ODAFF to administer the AgPDES program for discharges into navigable waters within its jurisdiction in accordance with Section 402(b) of the CWA and 40 CFR Part 123.

Dated: December 20, 2012.

Ron Curry,

Regional Administrator, EPA Region 6.

[FR Doc. 2012–31715 Filed 1–3–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 11:00 a.m.–3:00 p.m., February 7, 2013.

Place: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 and the pass code is 9933701.

Status: Open to the public, but without a verbal public comment period. Written comment should be provided to the contact person below in advance of the meeting.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, most recently, August 3, 2011, and will expire on August 3, 2013.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: The agenda for the conference call includes: General Steel Industries SEC Petition Board Recommendation; Review of Responses to Public Comments from the September 2012 Advisory Board Meeting; Subcommittee and Work Group Updates; SEC Petition Evaluations Update for the March 2013 Advisory Board Meeting; Plans for the March 2013 Advisory Board Meeting; and Advisory Board Correspondence.

The agenda is subject to change as priorities dictate.

Because there is not an oral public comment period, written comments may be submitted. Any written comments received will be included in the official record of the meeting and should be submitted to the contact person below in advance of the meeting. Contact Person for More Information: Theodore M. Katz, M.P.A., Executive Secretary, NIOSH, CDC, 1600 Clifton Road NE., Mailstop: E–20, Atlanta, Georgia 30333, Telephone: (513) 533–6800, Toll Free 1–800–CDC–INFO, Email *ocas@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–31689 Filed 1–3–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Identification, Surveillance, and Control of Vector-Borne and Zoonotic Infectious Diseases in Uganda, Funding Opportunity Announcement (FOA) CK13–001, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 1:00 p.m.–3:00 p.m., February 19, 2013.

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Identification, Surveillance, and Control of Vector-Borne and Zoonotic Infectious Diseases in Uganda, FOA CK13–001.''

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–31692 Filed 1–3–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Review, Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting for the aforementioned subcommittee:

Time and Date: 9:00 a.m.–5:00 p.m., February 5, 2013.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018, Telephone: (859) 334–4611, Fax: (859) 334–4619.

Status: Open to the public, but without an oral public comment period. To access by

conference call dial the following information: (866) 659–0537, Participant Pass Code 9933701.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the compensation program. Key functions of the ABRWH include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the ABRWH to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2013.

Purpose: The ABRWH is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is a reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee on Procedures Review was established to aid the ABRWH in carrying out its duty to advise the Secretary, HHS, on dose reconstructions. The Subcommittee on Procedures Review is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor.

Matters to be Discussed: The agenda for the Subcommittee meeting includes discussion of the following ORAU and DCAS procedures: OCAS TIB–0009 (''Estimation of Ingestion Intakes''), DCAS TIB–0013 (''Selected Geometric Exposure Scenario Considerations for External Dose Reconstruction at Uranium Facilities''), DCAS OTIB–0010 (''Best Estimate External Dose Reconstruction for Glovebox Workers''), DCAS IG–001 (''External Dose Reconstruction Implementation Guidelines''), DCAS IG–003 (''Radiation Exposures Covered for Dose Reconstructions under Part B of the Energy Employees Occupational Illness Compensation Program Act''), DCAS IG–005 (''Use of Classified Information''), Program Evaluation Report 014 (''Construction Trades Workers''), Program Evaluation Report 017 (''Evaluation of Incomplete Internal Dose Records from Idaho, Argonne-East and Argonne-West National Laboratories''), Program Evaluation Report 029 (''Hanford''), ORAUT–PROC–0044 (''Special Exposure Cohort''); Discussion of New Summaries of Completed Reviews; and a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

This meeting is open to the public, but without an oral public comment period. In the event an individual wishes to provide comments, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road NE., Mailstop E–20, Atlanta Georgia 30333, Telephone: (513) 533–6800, Toll Free 1(800)CDC–INFO, Email *dcas@cdc.gov.* The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–31685 Filed 1–3–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 8:30 a.m.–5:00 p.m., February 4, 2013.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018, Telephone: (859)334–4611, Fax: (859)334–4619.

Status: Open to the public, but without an oral public comment period. To access by conference call dial the following information 1(866)659–0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2013.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters to be Discussed: The agenda for the Subcommittee meeting includes: reconsidering the Board's dose reconstruction case review process; dose reconstruction program quality management and assurance activities, including: current findings from NIOSH internal dose reconstruction blind reviews; and discussion of dose reconstruction cases under review (sets 8–9, Savannah River Site, Rocky Flats Plant, and Los Alamos National Laboratory cases from sets 10–13).

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road NE., Mailstop E–20, Atlanta Georgia 30333, Telephone: (513)533–6800, Toll Free 1(800)CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–31694 Filed 1–3–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Medical Imaging Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Medical Imaging Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 14, 2013, from 8 a.m. to 3 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Diane Goyette, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *MIDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On February 14, 2013, the committee will discuss new drug application (NDA) 204781, proposed trade name DOTAREM (gadoterate meglumine injection), application submitted by Guerbet, LLC. The proposed indication (use) for this product is for magnetic resonance imaging in brain (intracranial), spine, and associated tissues in adults and pediatric patients (from neonates to 17 years of age) to detect and visualize areas with disruption of the blood brain barrier (specialized tissues that help protect the brain) and/or abnormal vascularity (abnormal blood circulation).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 31, 2013. Oral presentations from the public will be scheduled between approximately 12:30 p.m. and 1:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 23, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 24, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Diane Goyette at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 28, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–31676 Filed 1–3–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Reproductive Health Drugs.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 4, 2013, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–

0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ACRHD@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On March 4, 2013, during the morning session, the committee will discuss new drug application (NDA) 022506, gabapentin 600 milligram (mg) tablets, submitted by Depomed, Inc., for the proposed indication of treatment of moderate to severe vasomotor symptoms due to menopause.

During the afternoon session, the committee will discuss NDA 204516, paroxetine mesylate 7.5 mg capsules, submitted by Noven Therapeutics, LLC, for the proposed indication of treatment of moderate to severe vasomotor symptoms associated with menopause.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 15, 2013. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m. and 3:30 p.m. to 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 7, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing sessions, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing sessions. The contact person will notify interested persons regarding their request to speak by February 8, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 28, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–31675 Filed 1–3–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel U.S.-China Program for Biomedical Collaborative Research (R01)—2.

Date: January 24–25, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Room 3139, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Barney Duane Price, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3139, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2592, *pricebd@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 28, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31631 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PSE: Member Conflict Applications.

Date: January 30–31, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Thrombosis and Hypertension.

Date: January 31–February 1, 2013.

Time: 1:00 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, (Virtual Meeting).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7804, Bethesda, MD 20892, 301–495–1213, *espinozala@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Systemic Injury by Environmental Exposure.

Date: February 5–6, 2013.

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, Bethesda, MD 20814.

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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Motivated Behavior Study Section.

Date: February 6, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Nicholas Gaiano, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group, Tumor Progression and Metastasis Study Section.

Date: February 6–7, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Long Beach, 500 East First Street, Long Beach, CA 90802.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Cardiovascular Differentiation and Development Study Section.

Date: February 6, 2013.

Time: 8:00 a.m. to 6:30 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: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, BETHESDA, MD 20817–7814, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Lung Cellular, Molecular, and Immunobiology Study Section.

Date: February 6–7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: George M Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: February 6–7, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel, 1750 Rockville Pike, Rockville, MD 20892.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Clinical Molecular Imaging and Probe Development.

Date: February 6–7, 2013.

Time: 7:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Eileen W Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@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: December 31, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31740 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public as indicated below, 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.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended to discuss personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of privacy.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: January 28, 2013.

Time: 10:00 a.m. to 1:15 p.m.

Agenda: To review the 2013 Clinical Center Strategic and Annual Operating Plan and provide updates on selected organizational initiatives.

Place: National Institutes of Health, Building 10, CRC Medical Board Room 4–2551, 10 Center Drive, Bethesda, MD 20892.

Closed: 1:15 p.m. to 2:00 p.m.

Agenda: To discuss personnel matters.

Place: National Institutes of Health, Building 10, 10 Center Drive, CRC Medical Board Room 4–2551, Bethesda, MD 20892.

Contact Person: Maureen E Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, (301) 496–2897.

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.

Dated: December 31, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31741 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: January 29, 2013.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3126, 6700–B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, RM 3126, MSC–7616, Bethesda, MD 20892–7616, 301–451–2671, *aabbey@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 31, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31738 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section

Date: February 5–6, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: M Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: February 5–6, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; R15: Dermatology, Rheumatology, Dental, Bone, Muscle, Rehabilitation, Biomaterial and Tissue Engineering.

Date: February 5–6, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Aruna K Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: February 5, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Muscle and Exercise Physiology Study Section.

Date: February 5–6, 2013.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Long Beach and Executive Center, 701 West Ocean Boulevard, Long Beach, CA 90831.

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.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: December 27, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31630 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 Allergy and Infectious Diseases Special Emphasis Panel U.S.-China Program for Biomedical Collaborative Research (R01)—1.

Date: January 31–February 1, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Silver Spring Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: B. Duane Price, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3139, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2592, *pricebd@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 31, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31737 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Cancer Therapeutics.

Date: January 30, 2013.

Time: 3:00 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: Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Biophysics of Neural Systems Study Section.

Date: February 1, 2013.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Loews Philadelphia Hotel, 1200 Market Street, Philadelphia, PA 19107.

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: Population Sciences and Epidemiology Integrated Review Group Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: February 4–5, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Fungai Chanetsa, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Bioengineering, Technology and Surgical Sciences Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel Rockville, 1750 Rockville Pike, Rockville, MD 20892.

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group Biomaterials and Biointerfaces Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

*Contact Person:*Joseph D Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Riverwalk San Antonio, 111 East Pecan Street, San Antonio, TX 78205.

Contact Person: Monica Basco, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3220, MSC 7808, Bethesda, MD 20892, 301–496–7010, *bascoma@mail.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005.

Contact Person: Jane A Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

*Contact Person:*Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 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: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Risk, Prevention and Intervention for Addictions Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.

Date: February 7–8, 2013.

*Time:*8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Dana Jeffrey Plude, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–2309, *pluded@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Cancer Genetics Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

*Place:*The Mandarin Oriental, 1330 Maryland Avenue SW., Washington, DC 20024.

Contact Person: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function B Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Philadelphia Marriott, 1201 Market Street, Philadelphia, PA 19107.

Contact Person: Arnold Revzin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Washington Marriott at Metro Center, 775 12th Street, NW., Washington, DC 20001.

Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Diseases and Pathophysiology of the Visual System Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, *gordiyenkon@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Gastrointestinal Mucosal Pathobiology Study Section.

Date: February 7, 2013.

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: Peter J Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Imaging Technology B Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Lake Buena Vista Downtown, 1805 Hotel Plaza Boulevard, Lake Buena Vista, FL 32830.

Contact Person: Lee Rosen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.

Date: February 7, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Mechanisms of Sensory, Perceptual, and Cognitive Processes Study Section.

Date: February 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—A Study Section.

Date: February 7–8, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street, NW., Washington, DC 20037.

Contact Person: Joanna M Pyper, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: February 7–8, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.

Date: February 7–8, 2013.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Melissa Gerald, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 408–9107, *geraldmel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–11–216: Early Phase Clinical Trials in Imaging and Image-Guided Interventions.

Date: February 7, 2013.

Time: 2:15 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: David L Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301)435–1174, *williamsdl2@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: February 7–8, 2013.

Time: 7:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@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: December 31, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–31739 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of Gene Expression Signatures of Neoplasm Responsiveness to mTOR and HDAC Inhibitor Combination Therapy

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant to Empire Genomics LLC of an exclusive patent license to practice the inventions embodied in US Provisional Patent Application 61/558,402 entitled, ''Gene Expression Signatures of Neoplasm Responsiveness to Therapy'' [HHS Ref. E–013–2012/0–US–01], and all continuing applications and foreign counterparts. The patent rights in this invention have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to:

the use of the licensed patent rights limited to an FDA-cleared or an FDA-approved *in vitro* diagnostic test kit for human use and predictive of the therapeutic benefit of combination therapy comprising an HDAC inhibitor and an mTOR inhibitor in the treatment of multiple myeloma, breast cancer, melanoma, lymphoma, and prostate cancer.

DATES: Only written comments or applications for a license, or both, which are received by the NIH Office of Technology Transfer on or before January 22, 2013 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Patrick P. McCue, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5560; Facsimile: (301) 402–0220; Email: *mccuepat@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This invention concerns the discovery of gene expression signatures indicative of tumors that are sensitive to combination therapy comprising mTOR and HDAC inhibitors. Broadly applicable to several cancer subtypes, the detection of such signatures in a tumor could be used to identify a patient as a potential candidate for mTOR and HDAC inhibitor combination therapy.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless the NIH receives, within fifteen (15) days from the date of this published notice, written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 31, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–31743 Filed 1–3–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–USCG–2012–1091]

Availability of Draft Environmental Assessment for the Proposed Modification of the Bayonne Bridge Across the Kill Van Kull Between Bayonne, Hudson County, NJ and Staten Island, Richmond County, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments; notice of public meetings.

SUMMARY: The Coast Guard announces the availability of a Draft Environmental Assessment (Draft EA) and the dates and locations of two public meetings on the Draft EA, which considered the reasonably foreseeable environmental impacts and socio-economic impacts of the proposed modification of the historic Bayonne Bridge across the Kill Van Kull between Bayonne, New Jersey and Staten Island, New York. As a structure over navigable waters of the United States, the proposed bridge modification would require a Coast Guard Bridge Permit Amendment. We

request your comments on the Draft EA. Our publication of this notice begins a 45-day comment period and provides information on how to participate in the public comment process for the Draft EA, which includes an opportunity to submit oral or written comments at two public meetings to consider an application by the Port Authority of New York & New Jersey (PANYNJ) for Coast Guard approval of the modification to the Bayonne Bridge across the Kill Van Kull.

DATES: Written comments and related material may be submitted to our online docket via *http://www.regulations.gov* on or before February 18, 2013, or must reach the Docket Management Facility by that date. The public meetings will be held on February 5, 2013, in Bayonne, NJ, and February 7, 2013 in Staten Island, NY (see the Background and Purpose section below for more details). If you wish to request an oral or sign language interpreter, we must receive your request for one by January 25, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2012–1091 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

We have provided a copy of the Draft EA in our online docket at *http://www.regulations.gov.* Also, the Coast Guard First District Bridge Office at 1 South Street Bldg 1, New York, NY 10004–1466 will maintain a printed copy of the Draft EA for public review. The document will be available for inspection at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The document will also be available for inspection in the locations shown in the section below titled ''Viewing the comments and the Draft EA.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or the public meetings, call or email Christopher Bisignano, Bridge Management Specialist, First Coast Guard District, U.S. Coast Guard; telephone 212–668–7165, email *Christopher.J.Bisignano@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.

Authority: The Draft Environmental Assessment has been prepared in accordance with the National Environmental Policy Act (NEPA) (42 United States Code (U.S.C.) 4321 et. seq.); Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 Code of Federal Regulations (CFR) parts 1500–1508) and associated CEQ guidelines; Department of Homeland Security Management Directive 5100.1, Environmental Planning Program; and United States Coast Guard (USCG) Commandant Instruction (COMDTINST) M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the Draft EA. All comments received, including comments received at the public meeting, will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2012–1091) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a 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,* insert (USCG–2012–1091) in the Search box, look for this notice in the docket and click the Comment button next to it. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments and the Draft EA: To view the comments and Draft EA go to *http://www.regulations.gov,* insert (USCG–2012–1091) in the Search box, then click on the ''Open Docket Folder'' option. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility. The Draft EA is also available online at *http://www.uscg.mil/d1/prevention/Bridges.asp, www.dhs.gov/nepa,* and *http://www.panynj.gov/bayonnebridge/,* and is available 10 a.m.–3 p.m., Monday through Friday (except federal holidays and as noted below), for inspection at the following locations:

1. U.S. Coast Guard Battery Bldg, 1 South Street, Building 1, New York, NY 10004
2. U.S. Coast Guard Sector New York, 212 Coast Guard Drive, Staten Island, NY 10305
3. Bayonne City Hall, 630 Avenue C, Bayonne, NJ 07002
4. Staten Island Borough Hall, 10 Richmond Terrace, Room 100, Staten Island, NY 10301
5. Bayonne Public Library, 630 Avenue C, Bayonne, NJ 07002 (Also available from 12 p.m.–5 p.m. on Saturdays)
6. Port Richmond—NY Public Library, 75 Bennett Street, Staten Island, NY 10302 (Also available 12 p.m.–5 p.m. on Thursdays and Saturdays)
7. Ironbound Community Corp, 317 Elm Street, Newark, NJ 07105
8. New York Assembly District 61, 853 Forest Avenue, Staten Island, NY 10301
9. New Jersey Legislative District 31, 447 Broadway, Bayonne, NJ 07002
10. New York City Council District 49, 130 Stuyvesant Place, Staten Island, NY 10301
11. Staten Island Community Board 1, 1 Edgewater Plaza, Room 217, Staten Island, NY 10305

Copies of all written communications from the public meetings will be available for review by interested persons on the online docket, USCG–2012–1091 via *http://www.regulations.gov.*

Transcripts of the meetings will be available for public review approximately 30 days after the meetings. All comments will be made part of the official case record.

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, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

Port Authority of New York and New Jersey (PANYNJ) has proposed to modify the Bayonne Bridge across navigable waters of the United States by raising the roadway thereby increasing the vertical navigational clearance from approximately 151 feet to 215 feet at Mean High Water. A thorough description of the project and how it would be completed can be found at the project's Web site: *http://www.panynj.gov/bayonnebridge/.*

The proposed bridge modification project has been identified as a significant project under ''Implementing Executive Order 13604 on Improving Performance of Federal Permitting and Review of Infrastructure Projects: A Federal Plan for Modernizing the Federal Permitting and Review Process for Better Projects, Improved Environmental and Community Outcomes, and Quicker Decisions,'' dated June 2012, which requires agencies to identify and expedite the permitting and environmental review process for regionally or nationally significant infrastructure projects. The existing Bayonne Bridge has a vertical navigational clearance of approximately 151 feet above the Kill Van Kull at Mean High Water. The applicant proposes to increase the vertical navigational clearance to approximately 215 feet above the waterway at Mean High Water to provide greater clearances to accommodate larger, Post-Panamax vessels and thereby ensure the long-term viability of the Port of New York and New Jersey. Post-Panamax vessels are wider and taller ships with deeper drafts that will be able to traverse through the Panama Canal once improvements on the canal are completed in 2014. The expanded purpose of the project is to improve the substandard features and seismic stability of the existing bridge and ensure it conforms to modern highway and structural design standards. In addition, the existing bridge is eligible for listing on the National Register of Historic Places. Therefore, the Coast Guard has initiated consultation under Section 106 of the National Historic Preservation Act. The Advisory Council on Historic Preservation has accepted the Coast Guard invitation to participate in the Section 106 process.

The Coast Guard issued the NEPA Workplan, dated September 2011, which provided a discussion of the project's Purpose and Need, project alternatives and the framework of the environmental analysis. On October 31, 2011, the Coast Guard held a coordination meeting with city, state and federal agencies to discuss the project's scope and the NEPA Workplan. On November 14, 2011, the Coast Guard issued a solicitation requesting comments from the general public for the scope of the project and the NEPA Workplan. Comments received following the meeting and during the solicitation comment period included concerns from the U.S. Federal Highway Administration, U.S. Environmental Protection Agency, various private organizations and individuals, and others regarding additional cargo volumes due to larger ships entering the Port of New York and New Jersey, the expansion of the port and port facilities, and the related impacts to air quality and traffic. In response to these comments, an Induced Demand Analysis was conducted by an independent source to study the impact of the proposed action to those communities surrounding the Port of New York and New Jersey. Further information regarding this analysis can be found in Chapter 18 of the Draft EA and in Appendix I. In addition, the Coast Guard met with representatives from minority and low income communities in Staten Island, NY and Newark, NJ to explain the Coast Guard bridge permit process and to ensure those communities have a voice in the public comment process. Based on the information received to date, the Coast Guard has determined that a Draft Environmental Assessment is the most appropriate level of environmental documentation for this project. Should the Coast Guard determine that there are no significant impacts following the comment period; a Finding of No Significant Impact would be issued. Per NEPA procedures, should significant impacts be discovered during the review process, the level of environmental documentation may be elevated to an Environmental Impact Statement. The Draft EA and appendices, Coast Guard NEPA Workplan dated September 2011, ''Bayonne Bridge Navigational Clearance Program Responses to Scoping Comments NEPA Workplan,'' dated February 2012, are available online at *http://www.uscg.mil/d1/prevention/Bridges.asp.*

Alternatives for the proposed project considered include: (1) Taking no action; (2) various build alternatives that satisfy the purpose and need; (3) a tunnel; (4) new cargo terminals constructed downstream of the Bayonne Bridge; and (5) a ferry service in lieu of the bridge. Build alternatives included raising the roadway within the existing superstructure (preferred), jacking the arch superstructure, converting to a lift bridge, or constructing a new bridge.

As a structure over navigable waters of the United States, it requires a Coast Guard Bridge Permit Amendment pursuant to the Bridge Act of March 23, 1906, as amended, Title 33 U.S.C. 491. Additionally, the bridge permit amendment would be the major federal action in this undertaking since federal funds will not be used, and therefore the Department of Homeland Security, through the Coast Guard is the federal lead agency for review of potential effects on the human environment, including historic properties, pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.) and the National Historic Preservation Act (NHPA), as amended (16 U.S.C. 470 et seq.).

The Coast Guard, with assistance from PANYNJ, has prepared a Draft EA in accordance with NEPA. See ''Viewing the comments and Draft EA'' above. The Draft EA identifies and examines the reasonable alternatives (including ''No Build'') and assesses the potential for impact to the human environment, including historic properties, of the alternative proposals.

We are seeking public input on the Draft EA, including comments on completeness and adequacy of the document, and on other environmental and historic preservation concerns that may be related to the proposed bridge modification project. This includes suggesting analyses and methodologies for use in the Draft EA or possible sources of data or information not included in the Draft EA. Your comments will be considered while making the decision to prepare a final Environmental Assessment, or elevate the document to an Environmental Impact Statement.

The Coast Guard will hold two public meetings on the Draft EA, one in Bayonne, NJ and one in Staten Island, NY, to provide an opportunity for oral comments. The specific times and locations are as follows:

1. The first public meeting will be held on Tuesday, February 5, 2013, from 4 p.m.–9 p.m. at Bayonne High School Auditorium, 669 Avenue A (30th Street and Avenue A Entrance), Bayonne, NJ 07002.

2. The second public meeting will be held on Thursday, February 7, 2013, from 4 p.m.–9 p.m. at Snug Harbor Cultural Center Great Hall, 1000 Richmond Terrace, Building P, 2nd Floor, Staten Island, NY 10301.

The Coast Guard and PANYNJ will make brief presentations at 4 p.m. and 7 p.m. at each meeting to accommodate the differing schedules of those wishing to attend. The purpose of these meetings is to consider an application by the PANYNJ for Coast Guard approval of the modification to the historic Bayonne Bridge across the Kill Van Kull, mile 1.5, between Bayonne, NJ and Staten Island, NY. All interested parties may present data, views, and comments, orally or in writing, concerning the impact of the proposed bridge project on navigation and the human environment.

The public meetings will be informal. A representative of the Coast Guard will preside, make a brief opening statement and announce the procedure to be followed at the meetings. Attendees who request an opportunity to present oral comments at a public meeting must sign up to speak at the meeting site at the designated time of the meeting. Speakers will be called in the order of receipt of the request. Attendees at the meetings, who wish to present testimony, and have not previously made a request to do so, will follow those having submitted a request, as time permits. All oral presentations will be limited to three minutes. The public meetings may end early if all present wishing to speak have done so. Any oral comments provided at the meetings will be transcribed and placed into the docket by the Coast Guard. Written comments and related material may also be submitted to Coast Guard personnel specified at that meeting for placement into the docket by the Coast Guard.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Christopher Bisignano, Bridge Management Specialist, First Coast Guard District, U.S. Coast Guard; at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Any requests for an oral or sign language interpreter must be received by January 25, 2013.

This notice is issued under the authority of 5 U.S.C.552(a). Additionally, the draft EA has been prepared in accordance with the Bridge Act of March 23, 1906, as amended, Title 33 U.S.C. 491 and the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.); Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 Code of Federal Regulations (CFR) parts 1500–1508) and associated CEQ guidelines; Department of Homeland Security Management Directive 5100.1, Environmental Planning Program; and United States Coast Guard (USCG) Commandant Instruction (COMDTINST) M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

Dated: December 27, 2012.

Brian L. Dunn,

Administrator, Office of Bridge Programs, U.S. Coast Guard.

[FR Doc. 2012–31650 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1280]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Arizona:						
Maricopa	City of Goodyear (12–09–1661P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	City Hall, 190 North Litchfield Road, Goodyear, AZ 85338.	*http://www.r9map.org/Docs/12-09-1661P-040046-102DA.pdf.*	February 1, 2013	040046
Maricopa	Town of Cave Creek (12–09–1536P).	The Honorable Vincent Francia, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, AZ 85331.	37622 North Cave Creek, Cave Creek, AZ 85331.	*http://www.r9map.org/Docs/12-09-1536P-040129-102IAC.pdf.*	January 4, 2013	040129
Maricopa	Unincorporated areas of Maricopa County (12–09–1661P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.r9map.org/Docs/12-09-1661P-040037-102DA.pdf.*	February 1, 2013	040037
Maricopa	Unincorporated Areas of Maricopa County (12–09–1536P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.r9map.org/Docs/12-09-1536P-040037-102IAC.pdf.*	January 4, 2013	040037
Pinal	City of Apache Junction (11–09–3907P).	The Honorable John S. Insalaco, Mayor, City of Apache Junction, 300 East Superstition Boulevard, Apache Junction, AZ 85119.	Public Works Department, 1001 North Idaho Road, Apache Junction, AZ 85219.	*http://www.r9map.org/Docs/11-09-3907P-040120-102IAC.pdf.*	October 16, 2012	040120
California:						
Fresno	Unincorporated Areas of Fresno County (12–09–1045P).	The Honorable Debbie Poochigian, Chair, Fresno County Board of Supervisors, 2281 Tulare Street, Room 300, Fresno, CA 93721.	Design Services Division, 2220 Tulare Street, 6th Floor, Fresno, CA 93721.	*http://www.r9map.org/Docs/12-09-1045P-065029-102IAC.pdf.*	January 25, 2013	065029
Riverside	City of Beaumont (12–09–2411P).	The Honorable Roger Berg, Mayor, City of Beaumont, 550 East 6th Street, Beaumont, CA 92223.	550 East 6th Street, Beaumont, CA 92223.	*http://www.r9map.org/Docs/12-09-2411P-060247-102DA.pdf.*	February 9, 2013	060247
Riverside	City of Moreno Valley (12–09–0582P).	The Honorable Henry T. Garcia, City Manager, 14177 Frederick Street, Moreno Valley, CA 92553.	14177 Frederick Street, Moreno Valley, CA 92553.	*http://www.r9map.org/Docs/12-09-0582P-065074-102IAC.pdf.*	February 15, 2013	065074
San Mateo	Town of Portola Valley (12–09–1477P).	The Honorable Maryann Moise Derwin, Mayor, Town of Portola Valley, 765 Portola Road, Portola Valley, CA 94028.	Town Hall, 765 Portola Road, Portola Valley, CA 94028.	*http://www.r9map.org/Docs/12-09-1477P-065052-102DA.pdf.*	January 10, 2013	065052
Solano	City of Vallejo (12–09–2640P).	The Honorable Osby Davis, Mayor, City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590.	Public Works Department, 555 Santa Clara Street, Vallejo, CA 94590.	*http://www.r9map.org/Docs/12-09-2640P-060374-102DA.pdf.*	February 1, 2013	060374
Colorado:						
Adams	City of Commerce City (12–08–0512P).	The Honorable Sean Ford, Sr., Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	City Hall, 7887 East 60th Avenue, Commerce City, CO 80022.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	October 31, 2012	080006

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Adams	Unincorporated areas of Adams County (12–08–0512P).	The Honorable W. R. ''Skip'' Fischer, Chairman, Adams County Board of Commissioners, 4430 South Adams County Parkway, Suite C5000A, Brighton, CO 80601.	Adams County Public Works Department, 4430 South Adams County Parkway, Suite W2123, Brighton, CO 80601.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	October 31, 2012	080001
Arapahoe	Unincorporated areas of Arapahoe County (12–08–0619P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	*http://www.bakeraecom.com/index.php/colorado/arapahoe/.*	December 17, 2012	080011
Arapahoe	Unincorporated areas of Arapahoe County (12–08–0806P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	*http://www.bakeraecom.com/index.php/colorado/arapahoe/.*	February 1, 2013	080011
Larimer	Town of Wellington (12–08–0629P).	The Honorable Travis Vieira, Mayor, Town of Wellington, P.O. Box 127, Wellington, CO 80549.	Town Hall, 3735 Cleveland Street, Wellington, CO 80549.	*http://www.bakeraecom.com/index.php/colorado/larimer/.*	February 4, 2013	080104
Larimer	Unincorporated areas of Larimer County (12–08–0629P).	The Honorable Lew Gaiter III, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Courthouse, 200 West Oak Street, Fort Collins, CO 80521.	*http://www.bakeraecom.com/index.php/colorado/larimer/.*	February 4, 2013	080101
Connecticut: New Haven.	City of Meriden (12–01–1133P).	The Honorable Michael S. Rohde, Mayor, City of Meriden, 142 East Main Street, Meriden, CT 06450.	142 East Main Street, Room 19, Meriden, CT 06450.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	February 1, 2013	090081
Florida:						
Bay	City of Panama City (12–04–3225P).	The Honorable Greg Brudnicki, Mayor, City of Panama City, 9 Harrison Avenue, Panama City, FL 32401.	City Hall, Engineering Department, 9 Harrison Avenue, Panama City, FL 32402.	*http://www.bakeraecom.com/index.php/florida/bay-2/.*	November 26, 2012	120012
Bay	City of Panama City Beach (12–04–4609P).	The Honorable Gayle Oberst, Mayor, City of Panama City Beach, 110 South Arnold Road, Panama City Beach, FL 32413.	City Hall, Building Department, 110 South Arnold Road, Panama City Beach, FL 32413.	*http://www.bakeraecom.com/index.php/florida/bay-2/.*	February 11, 2013	120013
Bay	Unincorporated areas of Bay County (12–04–3225P).	The Honorable George B. Gainer, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	*http://www.bakeraecom.com/index.php/florida/bay-2/.*	November 26, 2012	120004
Hillsborough	City of Plant City (12–04–4888P).	The Honorable Michael S. Sparkman, Mayor, City of Plant City, P.O. Box C, Plant City, FL 33563.	Engineering Division, 302 West Reynolds Street, Plant City, FL 33607.	*http://www.bakeraecom.com/index.php/florida/hillsborough/.*	February 1, 2013	120113
Orange	City of Orlando (12–04–6290P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32302.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	February 4, 2013	120186
Sarasota	Town of Longboat Key (12–04–4786P).	The Honorable Jim Brown, Mayor, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Planning, Zoning, and Building Department, 501 Bay Isles Road, Longboat Key, FL 34228.	*http://www.bakeraecom.com/index.php/florida/sarasota/.*	February 8, 2013	125126
Seminole	Unincorporated areas of Seminole County (12–04–6244P).	The Honorable Brenda Carey, Chair, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	Seminole County Public Works Department, 1101 East 1st Street, Sanford, FL 32771.	*http://www.bakeraecom.com/index.php/florida/seminole-2/.*	February 4, 2013	120289
Idaho:						
Ada	City of Meridian (11–10–0941P).	The Honorable Tammy de Weerd, Mayor, City of Meridian, 33 East Broadway Avenue, Meridian, ID 83642.	33 East Broadway Avenue, Meridian, ID 83642.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	February 15, 2013	160180

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Ada	Unincorporated areas of Ada County (12–10–0639P).	The Honorable Rick Yzaguirre, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	200 West Front Street, Boise, ID 83702.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	January 25, 2012	160001
Ada	Unincorporated areas of Ada County (11–10–0941P).	The Honorable Rick Yzaguirre, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	200 West Front Street, Boise, ID 83702.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	February 15, 2013	160001
Illinois:						
Cook	Village of Bridgeview (12–05–6205P).	The Honorable Steven Landek, Mayor, Village of Bridgeview, 7500 South Oketo Avenue, Bridgeview, IL 60455.	7500 South Oketo Avenue, Bridgeview, IL 60455.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	January 10, 2013	170065
Peoria	City of Peoria (12–05–6071P).	The Honorable Jim Ardis, Mayor, City of Peoria, 419 Fulton Street, Room 207, Peoria, IL 61602.	3505 North Dries Lane, Peoria, IL 61604.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	January 18, 2013	170536
Peoria	City of Peoria (12–05–6047P).	The Honorable Jim Ardis, Mayor, City of Peoria, 419 Fulton Street, Room 207, Peoria, IL 61602.	3505 North Dries Lane, Peoria, IL 61604.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	February 11, 2013	170536
Indiana:						
Lake	City of Hammond (12–05–7873P).	The Honorable Thomas M. McDermott, Jr., Mayor, City of Hammond, 5925 Calumet Avenue, Hammond, IN 46320.	5925 Calumet Avenue, Hammond, IN 46320.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	March 1, 2013	180134
Lake	Town of Munster (12–05–7873P).	The Honorable David Nellans, President, Munster Town Council, 1005 Ridge Road, Munster, IN 46321.	1005 Ridge Road, Munster, IN 46321.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	March 1, 2013	180139
Lake	Town of St. John (12–05–7462P).	The Honorable Mike Forbes, Town Council President, 10995 West 93rd Avenue, St. John, IN 46373.	10995 West 93rd Avenue, St. John, IN 46373.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	February 4, 2013	180141
Massachusetts: Plymouth.	Town of Mattapoisett (12–01–2089P).	The Honorable Jordan C. Collyer, Chairman, Board of Selectmen, 16 Main Street, Mattapoisett, MA 02739.	16 Main Street, Mattapoisett, MA 02739.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	February 22, 2013	255214
Mississippi: Lamar	Unincorporated areas of Lamar County (12–04–2162P).	The Honorable Joe Bounds, Chairman, Lamar County Board of Supervisors, 403 Main Street, Purvis, MS 39475.	Lamar County Planning Department, Central Office Complex, 144 Shelby Speights Drive, Purvis, MS 39475.	*http://www.bakeraecom.com/index.php/mississippi/lamar/.*	February 1, 2013	280304
Nevada: Clark	Unincorporated areas of Clark County (12–09–1708P).	The Honorable Susan Brager, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	Clark County Public Works Department, 500 South Grand Central Parkway, Las Vegas, NV 89155.	*http://www.r9map.org/Docs/12-09-1708P-320003-102IAC.pdf.*	January 18, 2013	320003
Ohio: Franklin	City of Columbus (12–05–3607P).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, 2nd Floor, Columbus, OH 43215.	1250 Fairwood Avenue, Columbus, OH 43206.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	January 31, 2013	390170
Oregon: Jackson	Unincorporated areas of Jackson County (11–10–1120P).	The Honorable Don Skundrick, Chair, Jackson County Board of Commissioners, 10 South Oakdale Avenue, Room 100, Medford, OR 97501.	10 South Oakdale Avenue, Medford, OR 97501.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	February 22, 2013	415589
South Dakota:						
Meade	Town of Piedmont (12–08–0611P).	The Honorable Phil Anderson, Mayor, Town of Piedmont, 111 South 2nd Street, Piedmont, SD 57769.	Town of Piedmont, 1400 Main Street, Sturgis, SD 57785.	*http://www.bakeraecom.com/index.php/southdakota/meade/.*	January 28, 2013	461198
Meade	Unincorporated areas of Meade County (12–08–0611P).	The Honorable Alan Aker, Chairman, Meade County Board of Commissioners, 14347 Mahaffey Drive, Piedmont, SD 57769.	Meade County Emergency Management Department, 1400 Main Street, Sturgis, SD 57785.	*http://www.bakeraecom.com/index.php/southdakota/meade.*	January 28, 2013	460054

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Tennessee:						
Williamson	City of Franklin (12–04–6046P).	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 37064.	City Hall, 109 3rd Avenue South, Franklin, TN 37064.	*http://www.bakeraecom.com/index.php/tennessee/williamson/.*	February 4, 2013	470206
Williamson	Unincorporated areas of Williamson County (12–04–6046P).	The Honorable Rodgers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Complex, Planning Department, 1320 West Main Street, Suite 125, Franklin, TN 37064.	*http://www.bakeraecom.com/index.php/tennessee/williamson/.*	February 4, 2013	470204
Washington: King	City of Shoreline (12–10–0141P).	The Honorable Keith McGlashan, Mayor, City of Shoreline, 17500 Midvale Avenue North, Shoreline, WA 98133.	17500 Midvale Avenue North, Shoreline, WA 98133.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	February 4, 2013	530327
Wisconsin:						
Brown	Village of Howard (12–05–4503P).	The Honorable Burt R. McIntyre, President, Howard Town Board of Trustees, 2456 Glendale Avenue, Green Bay, WI 54313.	2456 Glendale Avenue, Green Bay, WI 54313.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	March 4, 2013	550023
Trempealeau	City of Arcadia (12–05–1591P).	The Honorable John Kimmel, Mayor, City of Arcadia, 203 West Main Street, Arcadia, WI 54612.	203 West Main Street, Arcadia, WI 54612.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	February 15, 2013	550439
Trempealeau	Unincorporated Areas of Trempealeau County (12–05–1591P).	The Honorable Ernest Vold, Chair, Trempealeau County Board of Supervisors, 36245 Main Street, Whitehall, WI 54773.	36245 Main Street, Whitehall, WI 54773.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	February 15, 2013	555585
Wyoming:						
Crook	Town of Sundance (12–08–0746P).	The Honorable Paul S. Brooks, Mayor, Town of Sundance, 213 East Main Street, Sundance, WY 82729.	City Hall, 213 Main Street, Sundance, WY 82729.	*http://www.bakeraecom.com/index.php/wyoming/crook/.*	February 8, 2013	560017
Sweetwater ...	City of Rock Springs (12–08–0454P).	The Honorable Carl R. Demshar, Jr., Mayor, City of Rock Springs, 212 D Street, Rock Springs, WY 82901.	Department of Public Works, 212 D Street, Rock Springs, WY 82901.	*http://www.bakeraecom.com/index.php/wyoming/sweetwater/.*	February 11, 2013	560051

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

James A. Walke,

Acting Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–31652 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003: Internal Agency Docket No. FEMA–B–1279]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama: Morgan ..	City of Decatur (12–04–5276P).	The Honorable Don Stanford, Mayor, City of Decatur, P.O. Box 488, Decatur, AL 35602.	City Hall, 402 Lee Street Northeast, Decatur, AL 35601.	*http://www.bakeraecom.com/index.php/alabama/morgan-2/.*	January 7, 2013	010176
Arizona: Maricopa	Unincorporated areas of Maricopa County (12–09–0756P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85009.	2801 West Durango Street, Phoenix, AZ 85009.	*http://www.r9map.org/Docs/12-09-0756P-040037-102IAC.pdf.*	August 17, 2012	040037
California:						
Riverside	Unincorporated areas of Riverside County (12–09–0462P).	The Honorable John F. Tavaglione, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	*http://www.r9map.org/Docs/12-09-0462P-060245-102IAC.pdf.*	September 17, 2012	060245
San Bernardino	City of Ontario (12–09–2406P).	The Honorable Paul S. Leon, Mayor, City of Ontario, 303 East B Street, Ontario, CA 91764.	City Hall, Engineering Department Public Counter, 303 East B Street, Ontario, CA 91764.	*http://www.r9map.org/Docs/12-09-2406P-060278-102IAC.pdf.*	January 4, 2013	060278
San Diego	City of Coronado (12–09–2589P).	The Honorable Casey Tanaka, Mayor, City of Coronado, 1825 Strand Way, Coronado, CA 92118.	City Hall, 1825 Strand Way, Coronado, CA 92118.	*http://www.r9map.org/Docs/12-09-2589P-060287-102IAC.pdf.*	January 17, 2013	060287
San Diego	City of San Diego (12–09–0966P).	The Honorable Jerry Sanders, Mayor, City of San Diego, 202 C Street, San Diego, CA 92101.	202 C Street, San Diego, CA 92101.	*http://www.r9map.org/Docs/12-09-0966P-060295-102IAC.pdf.*	October 9, 2012	060295
San Diego	City of San Marcos (12–09–1988P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	*http://www.r9map.org/Docs/12-09-1988P-060296-102IAC.pdf.*	January 25, 2013	060296
San Diego	Unincorporated areas of San Diego County (12–09–0044P).	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92101.	5555 Overland Avenue, San Diego, CA 92101.	*http://www.r9map.org/Docs/12-09-0044P-060284-102AC.pdf.*	August 28, 2012	060284
Solano	Unincorporated areas of Solano County (12–09–1553P).	The Honorable Linda J. Seifert, Chair, Solano County Board of Supervisors, 675 Texas Street, Suite 6500, Fairfield, CA 94533.	Solano County Public Works Department, 675 Texas Street, Suite 5500, Fairfield, CA 94533.	*http://www.r9map.org/Docs/12-09-1553P-060631-102IAC.pdf.*	January 21, 2013	060631
Colorado:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Douglas	Unincorporated areas of Douglas County (12–08–0727P).	The Honorable Jack Hilbert, Chairman, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Department of Public Works, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	*http://www.bakeraecom.com/index.php/colorado/douglas-2/.*	January 11, 2013	080049
Jefferson	City of Golden (12–08–0103P).	The Honorable Marjorie Sloan, Mayor, City of Golden, 911 10th Street, Golden, CO 80401.	Public Works and Planning Department, 1445 10th Street, Golden, CO 80401.	*http://www.bakeraecom.com/index.php/colorado/jefferson-5/.*	January 18, 2013	080090
Jefferson	Unincorporated areas of Jefferson County (12–08–0572P).	The Honorable Donald Rosier, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Suite 3, Golden, CO 80419.	*http://www.bakeraecom.com/index.php/colorado/jefferson-5/.*	January 18, 2013	080087
New Haven	Town of Guilford (12–01–0839P).	The Honorable Joseph S. Mazza, First Selectman, Town of Guilford Board of Selectmen, 31 Park Street, Guilford, CT 06437.	50 Boston Street, Guilford, CT 06437.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	July 27, 2012	090077
Florida:						
Lee	City of Fort Myers (12–04–3735P).	The Honorable Randy Henderson, Jr., Mayor, City of Fort Myers, 2200 2nd Street, Fort Myers, FL 33901.	Community Development Department, 1825 Hendry Street, Fort Myers, FL 33901.	*http://www.bakeraecom.com/index.php/florida/lee-5/.*	January 18, 2013	125106
Lee	Unincorporated areas of Lee County (12–04–3735P).	The Honorable John E. Manning, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	*http://www.bakeraecom.com/index.php/florida/lee-5/.*	January 18, 2013	125124
Orange	City of Orlando (12–04–6040P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32301.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	January 25, 2013	120186
Orange	Unincorporated areas of Orange County (12–04–6040P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	January 25, 2013	120179
Georgia: Columbia	Unincorporated areas of Columbia County (12–04–4789P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Development Services Division, 630 Ronald Reagan Drive, Evans, GA 30809.	*http://www.bakeraecom.com/index.php/georgia/columbia-2/.*	January 17, 2013	130059
Indiana:						
Floyd	City of New Albany (12–05–0562P).	The Honorable Jeff M. Gahan, Mayor, City of New Albany, 311 Hauss Square, Suite 316, New Albany, IN 47150.	311 Hauss Square, New Albany, IN 47150.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	September 12, 2012	180062
Hendricks	Unincorporated areas of Hendricks County (12–05–0826P).	The Honorable Eric L. Wathen, President, Hendricks County Board of Commissioners, 355 South Washington Street, Danville, IN 46122.	355 South Washington Street, Danville, IN 46122.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	August 30, 2012	180415
Iowa: Black Hawk	City of Cedar Falls (12–07–1218P).	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613.	220 Clay Street, Cedar Falls, IA 50613.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	April 12, 2012	190017
Maine:						
Cumberland	City of Portland (12–01–0271P).	The Honorable Michael Brennan, Mayor, City of Portland, 389 Congress Street, Portland, ME 04101.	389 Congress Street, Portland, ME 04101.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	September 14, 2012	230051
York	Town of Kittery (12–01–1257P).	The Honorable Judith Spiller, Chair, Kittery Town Council, 200 Rogers Road, Kittery, ME 03904.	200 Rogers Road, Kittery, ME 03904.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	November 23, 2012	230171
Michigan:						
Ingham	Charter Township of Meridian (12–05–0834P).	The Honorable Susan McGillicuddy, Supervisor, Meridian Township Board, 5151 Marsh Road, Okemos, MI 48864.	5151 Marsh Road, Okemos, MI 48864.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	October 22, 2012	260093

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Macomb	Charter Township of Clinton (12–05–2784P).	The Honorable Robert J. Cannon, Supervisor, Clinton Township Board of Trustees, 40700 Romeo Plank Road, Clinton Township, MI 48038.	40700 Romeo Plank Road, Clinton Township, MI 48038.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	October 26, 2012	260121
Oakland	City of Troy (12–05–7920P).	The Honorable Janice Daniels, Mayor, City of Troy, 500 West Big Beaver Road, Troy, MI 48084.	500 West Big Beaver Road, Troy, MI 48084.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 28, 2012	260180
Minnesota: Rice	City of Northfield (12–05–1809P).	The Honorable Mary Rossing, Mayor, City of Northfield, 801 Washington Street, Northfield, MN 55057.	801 Washington Street, Northfield, MN 55057.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	October 2, 2012	270406
Missouri:						
Boone	Unincorporated areas of Boone County (12–07–0634P).	The Honorable Dan Atwill, Presiding Commissioner, Boone County Board of Commissioners, 801 East Walnut, Room 333, Columbia, MO 65201.	801 East Walnut, Columbia, MO 65201.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	August 31, 2012	290034
Greene	City of Springfield (12–07–2301P).	The Honorable Bob Stephens, Mayor, City of Springfield, 840 Boonville Avenue, Springfield, MO 65801.	840 Boonville Avenue, Springfield, MO 65801.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	December 27, 2012	290149
St. Charles	City of O'Fallon (12–07–0766P).	The Honorable Bill Hennessy, Mayor, City of O'Fallon, 100 North Main Street, O'Fallon, MO 63366.	100 North Main Street, O'Fallon, MO 63366.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	December 20, 2012	290316
St. Charles	Unincorporated areas of St. Charles County (12–07–0766P).	The Honorable Nancy Matheny, Chair, St. Charles County Counsel, 100 North 3rd Street, Suite 124, St. Charles, MO 63301.	300 North 2nd Street, St. Charles, MO 63301.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	December 20, 2012	290315
Nebraska:						
Dakota	Village of Homer (12–07–1010P).	The Honorable Corbet Dorsey, Chairman, Homer Village Board, 110 John Street, Homer, NE 68030.	110 John Street, Homer, NE 68030.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	September 21, 2012	310241
Lancaster	City of Lincoln (12–07–2343P).	The Honorable Chris Beutler, Mayor, City of Lincoln, 555 South 10th Street, Suite 301, Lincoln, NE 68508.	555 South 10th Street, Suite 301, Lincoln, NE 68508.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	December 7, 2012	315273
New Hampshire:						
Belknap	Town of Belmont (12–01–0021P).	The Honorable Jon Pike, Chairman, Board of Selectmen, 143 Main Street, Belmont, NH 03220.	143 Main Street, Belmont, NH 03220.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	August 17, 2012	330002
Hillsborough	City of Nashua (12–01–0285P).	The Honorable Donnalee Lozeau, Mayor, City of Nashua, 229 Main Street, Nashua, NH 03061.	229 Main Street, Nashua, NH 03061.	*http://www.starr-team.com/starr/LOMR/Pages/RegionI.aspx.*	November 27, 2012	330097
New York: Westchester.	Village of Mamaroneck (12–02–1302P).	The Honorable Norman S. Rosenblum, Mayor, Village of Mamaroneck, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Building Department, 169 Mount Pleasant Avenue, 3rd Floor, Mamaroneck, NY 10543.	*http://www.rampp-team.com/lomrs.htm.*	February 20, 2013	360916
North Dakota: Stark	City of Dickinson (12–08–0288P).	The Honorable Dennis W. Johnson, Mayor, City of Dickinson, 99 2nd Street East, Dickinson, ND 58601.	Building Department, 99 2nd Street East, Dickinson, ND 58601.	*http://www.bakeraecom.com/index.php/north-dakota/stark/.*	January 7, 2013	380117
Ohio:						
Athens	City of Athens (12–05–4250P).	The Honorable Paul Wiehl, Mayor, City of Athens, 8 East Washington Street, Athens, OH 45701.	28 Curran Drive, Athens, OH 45701.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 21, 2012	390016
Athens	Unincorporated areas of Athens County (12–05–4250P).	The Honorable Lenny Eliason, Chair, Athens County Board of Commissioners, 15 South Court Street, Room 234, Athens, OH 45701.	69 South Plains Road, The Plains, OH 45780.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 21, 2012	390760

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Cuyahoga	City of Strongsville (12–05–0377P).	The Honorable Thomas P. Perciak, Mayor, City of Strongsville, 16099 Foltz Industrial Parkway, Strongsville, OH 44149.	16099 Foltz Industrial Parkway, Strongsville, OH 44149.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 7, 2012	390132
Franklin	City of Columbus (11–05–7877P).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, 2nd Floor, Columbus, OH 43215.	90 West Broad Street, Columbus, OH 43215.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	August 30, 2012	390170
Franklin	Unincorporated areas of Franklin County (11–05–7877P).	The Honorable Marilyn Brown, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, OH 43215.	280 East Broad Street, Columbus, OH 43215.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	August 30, 2012	390167
Lucas	City of Toledo (12–05–6346P).	The Honorable Michael P. Bell, Mayor, City of Toledo, 640 Jackson Street, Suite 2200, Toledo, OH 43604.	6200 Bay Shore Road, Suite 300, Toledo, OH 43616.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 28, 2012	395373
Montgomery	City of Englewood (12–05–5251P).	The Honorable Patricia Burnside, Mayor, City of Englewood, 333 West National Road, Englewood, OH 45322.	333 West National Road, Englewood, OH 45322.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 14, 2012	390828
Warren	City of Franklin (12–05–0770P).	The Honorable Scott Lipps, Mayor, City of Franklin, 1 Benjamin Franklin Way, Franklin, OH 45005.	1 Benjamin Franklin Way, Franklin, OH 45005.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	September 28, 2012	390556
Oregon:						
Clackamas	City of Lake Oswego (12–10–0728P).	The Honorable Jack Hoffman, Mayor, City of Lake Oswego, 380 A Avenue, Lake Oswego, OR 97034.	380 A Avenue, Lake Oswego, OR 97034.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	August 24, 2012	410018
Jackson	Unincorporated areas of Jackson County (11–10–1783P).	The Honorable Don Skundrick, Chair, Jackson County Board of Commissioners, 10 South Oakdale Avenue, Room 100, Medford, OR 97501.	10 South Oakdale Avenue, Room 100, Medford, OR 97501.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	December 6, 2012	415589
Josephine	Unincorporated areas of Josephine County (11–10–1783P).	The Honorable Simon G. Hare, Chair, Josephine County Board of Commissioners, 500 Northwest 6th Street, Grant Pass, OR 97526.	510 Northwest 4th Street, Grants Pass, OR 97526.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	December 6, 2012	415590
Linn	City of Sweet Home (12–10–0280P).	The Honorable Craig Fentiman, Mayor, City of Sweet Home, 1140 12th Avenue, Sweet Home, OR 97386.	1140 12th Avenue, Sweet Home, OR 97386.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	December 27, 2012	410146
Marion	City of Salem (11–10–1646P).	The Honorable Anna M. Peterson, Mayor, City of Salem, 555 Liberty Street Southeast, Room 220, Salem, OR 97301.	555 Liberty Street Southeast, Salem, OR 97301.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	August 31, 2012	410167
Marion	Unincorporated areas of Marion County (12–10–0559P).	The Honorable Patti Milne, Chair, Marion County Board of Commissioners, 100 High Street Northeast, Salem, OR 97301.	3150 Lancaster Drive Northeast, Salem, OR 97305.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	September 21, 2012	410154
Multnomah	City of Fairview (11–10–1884P).	The Honorable Mike Weatherby, Mayor, City of Fairview, 1300 Northeast Village Street, Fairview, OR 97024.	1300 Northeast Village Street, Fairview, OR 97024.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	July 27, 2012	410180
Multnomah	City of Troutdale (11–10–1884P).	The Honorable James Knight, Mayor, City of Troutdale, 104 Southeast Kibling, Troutdale, OR 97060.	19 East Historic Columbia River Highway, Troutdale, OR 97060.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	July 27, 2012	410184
Multnomah	City of Wood Village (11–10–1884P).	The Honorable Patricia Smith, Mayor, City of Fairview, 2055 Northeast 238th Drive, Wood Village, OR 97060.	2055 Northeast 238th Drive, Wood Village, OR 97060.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	July 27, 2012	410185
South Carolina:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Richland	Unincorporated areas of Richland County (12–04–1256P).	The Honorable Kelvin Washington, Chairman, Richland County Council, 2020 Hampton Street, Columbia, SC 29204.	Richland County Administration Building, 2020 Hampton Street, 1st Floor, Columbia, SC 29204.	*http://www.bakeraecom.com/index.php/southcarolina/richland/.*	December 31, 2012	450170
Tennessee:						
Hamilton	City of Collegedale (11–04–7989P).	The Honorable John Turner, Mayor, City of Collegedale, P.O. Box 1880, Collegedale, TN 37315.	City Hall, 4910 Swinyar Drive, Collegedale, TN 37315.	*http://www.bakeraecom.com/index.php/tennessee/hamilton/.*	January 15, 2013	475422
Hamilton	Unincorporated areas of Hamilton County (11–04–7989P).	The Honorable Jim Coppinger, Mayor, Hamilton County, 625 Georgia Avenue, Chattanooga, TN 37402.	Hamilton County Regional Planning Department, 1250 Market Street, Chattanooga, TN 37402.	*http://www.bakeraecom.com/index.php/tennessee/hamilton/.*	January 15, 2013	470071
Texas:						
Bexar	City of San Antonio (12–06–0109P).	The Honorable Julian Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	480045
Bexar	Unincorporated areas of Bexar County (12–06–0109P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Public Works Department, 233 North Pecos—La Trinidad, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	480035
Ellis	City of Midlothian (12–06–0065P).	The Honorable Bill Houston, Mayor, City of Midlothian, 104 West Avenue East, Midlothian, TX 76065.	104 West Avenue East, Midlothian, TX 76065.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2012	480801
Harris	City of Baytown (11–06–4571P).	The Honorable Stephen H. DonCarlos, Mayor, City of Baytown, 2401 Market Street, Baytown, TX 77522.	City Hall, 2401 Market Street, Baytown, TX 75522.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	485456
Harris	Unincorporated areas of Harris County (11–06–4571P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	480287
Harris	Unincorporated areas of Harris County (12–06–2710P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	480287
Lubbock	City of Lubbock (12–06–1157P).	The Honorable Glen Robertson, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, TX 79457.	City Hall, 1625 13th Street, Lubbock, TX 79408.	*http://www.rampp-team.com/lomrs.htm.*	January 22, 2013	480452
Rockwall	City of Rockwall (12–06–2575P).	The Honorable David Sweet, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 205 West Rusk Street, Rockwall, TX 75087.	*http://www.rampp-team.com/lomrs.htm.*	January 18, 2013	480547
Washington:						
King	Unincorporated areas of King County (11–10–1517P).	The Honorable Dow Constantine, King County Executive, 401 5th Avenue, Suite 800, Seattle, WA 98104.	201 South Jackson Street, Suite 600, Seattle, WA 98055.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	August 17, 2012	530071
Spokane	Unincorporated areas of Spokane County (12–10–0760P).	The Honorable Todd Mielke, Chair, Spokane County Board of Commissioners, 1116 West Broadway Avenue, Spokane, WA 99260.	1026 West Broadway Avenue, Spokane, WA 99260.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	November 21, 2012	530174
Wisconsin:						
Dodge	City of Beaver Dam (11–05–9168P).	The Honorable Tom Kennedy, Mayor, City of Beaver Dam, 205 South Lincoln Avenue, Beaver Dam, WI 53916.	205 South Lincoln Avenue, Beaver Dam, WI 53916.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	September 14, 2012	550095
Green	Unincorporated areas of Green County (12–05–1770P).	The Honorable Arthur Carter, Chair, Green County Board of Supervisors, 1016 16th Avenue, Monroe, WI 53566.	1016 16th Avenue, Monroe, WI 53566.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	September 13, 2012	550157

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Outagamie	Unincorporated areas of Outagamie County (12–05–1117P).	The Honorable Thomas Nelson, Outagamie County Executive, 410 South Walnut Street, Appleton, WI 54911.	410 South Walnut Street, Appleton, WI 54911.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 28, 2012	550302
Rock	City of Janesville (12–05–4053P).	The Honorable Eric Levitt, Manager, City of Janesville, 18 North Jackson Street, 3rd Floor, Janesville, WI 53547.	18 North Jackson Street, Janesville, WI 53547.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	November 21, 2012	555560
Richland	City of Richland (11–05–7586P).	The Honorable Larry Fowler, Mayor, City of Richland Center, 450 South Main Street, Richland Center, WI 53581.	450 South Main Street, Richland Center, WI 53581.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	August 24, 2012	555576
Richland	Unincorporated areas of Richland County (11–05–7586P).	The Honorable Ann M. Greenheck, Chair, Richland County Board of Supervisors, 31709 State Highway 130, Lone Rock, WI 53556.	181 West Seminary Street, Room 309, Richland Center, WI 53581.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	August 24, 2012	550356
Sheboygan	Unincorporated areas of Sheboygan County (12–05–4154P).	The Honorable Roger L. TeStroete, Chairman, Sheboygan County Board, 508 New York Avenue, Sheboygan, WI 53081.	508 New York Avenue, Room 335, Sheboygan, WI 53081.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 21, 2012	550424
Sheboygan	Village of Glenbeulah (12–05–4154P).	The Honorable Douglas Daun, President, Glenbeulah Village Board, 110 North Swift Street, Glenbeulah, WI 53023.	110 North Swift Street, Glenbeulah, WI 53023.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	December 21, 2012	550570
Waukesha	Unincorporated areas of Waukesha County (12–05–1322P).	The Honorable Don Vrakas, Waukesha County Executive, 515 West Moreland Boulevard, Room 320, Waukesha, WI 53188.	1320 Pewaukee Road, Room 230, Waukesha, WI 53188.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	November 16, 2012	550476

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

James A. Walke,

Acting Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–31651 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–B–1286]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at

www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Arizona:						
Yavapai	City of Prescott (12–09–1886P).	The Honorable Marlin Kuykendall, Mayor, City of Prescott, 201 South Cortez Street, Prescott, AZ 86303.	Public Works Department, 201 South Cortez Street, Prescott, AZ 86303.	*http://www.r9map.org/Docs/12-09-1886P-040098-102IAC.pdf.*	March 11, 2013	040098
Yavapai	City of Prescott Valley (12–09–1886P).	The Honorable Harvey C. Skoog, Mayor, Town of Prescott Valley, 7501 East Civic Circle, Prescott Valley, AZ 86314.	Engineering Division, 7501 East Civic Circle, Prescott Valley, AZ 86314.	*http://www.r9map.org/Docs/12-09-1886P-040121-102IAC.pdf.*	March 11, 2013	040121
Yavapai	Unincorporated areas of Yavapai County (12–09–1886P).	The Honorable Thomas Thurman, Chairman, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 500 South Marina Street, Prescott, AZ 86303.	*http://www.r9map.org/Docs/12-09-1886P-040093-102IAC.pdf.*	March 11, 2013	040093
California:						
Mendocino	City of Ukiah (12–09–2827P).	The Honorable Mary Anne Landis, Mayor, City of Ukiah, 300 Seminary Avenue, Ukiah, CA 95482.	Planning and Community Development Department, 300 Seminary Avenue, Ukiah, CA 95482.	*http://www.r9map.org/Docs/12-09-2827P-060186-102IAC.pdf.*	February 28, 2013	060186
San Bernardino.	Town of Apple Valley (12–09–1907P).	The Honorable Barb Stanton, Mayor, Town of Apple Valley, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	Engineering Department, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	*http://www.r9map.org/Docs/12-09-1907P-060752-102DA.pdf.*	March 11, 2013	060752
San Diego	City of San Marcos (12–09–1029P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	Public Works Department, 1 Civic Center Drive, San Marcos, CA 92069.	*http://www.r9map.org/Docs/12-09-1029P-060296-102IAC.pdf.*	March 7, 2013	060296
San Mateo	City of San Mateo (12–09–2887P).	The Honorable Brandt Grotte, Mayor, City of San Mateo, 330 West 20th Avenue, San Mateo, CA 94403.	Community Development Department, 330 West 20th Avenue, San Mateo, CA 94403.	*http://www.r9map.org/Docs/12-09-2887P-060328-102DA.pdf.*	March 4, 2013	060328
Colorado:						
Larimer	City of Fort Collins (12–08–0677P).	The Honorable Karen Weitkunat, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80521.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	*http://www.bakeraecom.com/index.php/colorado/larimer/.*	February 28, 2013	080102
Larimer	Unincorporated areas of Larimer County (12–08–0677P).	The Honorable Lew Gaiter III, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Engineering Department, 200 West Oak Street, Fort Collins, CO 80521.	*http://www.bakeraecom.com/index.php/colorado/larimer/.*	February 28, 2013	080101
Florida:						
Broward	City of Hallandale Beach (12–04–5196P).	The Honorable Joy Cooper, Mayor, City of Hallandale Beach, 400 South Federal Highway, Hallandale Beach, FL 33009.	Development Services, 2600 Hollywood Boulevard, Hallandale Beach, FL 33009.	*http://www.bakeraecom.com/index.php/florida/broward/.*	February 28, 2013	125110

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Lee	Unincorporated areas of Lee County (12–04–2790P).	The Honorable John E. Manning, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	*http://www.bakeraecom.com/index.php/florida/lee-5/.*	February 28, 2013	125124
Miami-Dade ...	City of Sunny Isles Beach (12–04–6055P).	The Honorable Norman S. Edelcup, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	Building and Development Department, 18070 Collins Avenue, Sunny Isles Beach, FL 33610.	*http://www.bakeraecom.com/index.php/florida/miami-dade/.*	March 11, 2013	120688
Monroe	Unincorporated Areas of Monroe County (12–04–5100P).	The Honorable David Rice, Mayor, Monroe County, Marathon Airport Terminal, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 330, Marathon, FL 33050.	*http://www.bakeraecom.com/index.php/florida/monroe-3/.*	February 18, 2013	125129
Monroe	Unincorporated Areas of Monroe County (12–04–6679P).	The Honorable David Rice, Mayor, Monroe County, Marathon Airport Terminal, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 330, Marathon, FL 33050.	*http://www.bakeraecom.com/index.php/florida/monroe-3/.*	February 4, 2013	125129
Orange	City of Orlando (12–04–5845P).	The Honorable Buddy Dyer Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32801.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	March 8, 2013	120186
Hawaii: Hawaii	Unincorporated Areas of Hawaii County (12–09–1607P).	The Honorable William P. Kenoi, Mayor, Hawaii County, 25 Aupuni Street, Suite 2603, Hilo, HI 96720.	Hawaii County Office Building, Department of Public Works, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	*http://www.r9map.org/Docs/12-09-1607P-155166-102IAC.pdf.*	March 4, 2013	155166
Utah: Washington	City of St. George (12–08–0643P).	The Honorable Daniel D. McArthur, Mayor, City of St. George, 175 East 200 North, St. George, UT 84770.	Engineering Department, 175 East 200 North, St. George, UT 84770.	*http://www.bakeraecom.com/index.php/utah/washington-4/.*	February 25, 2013	490177

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

James A. Walke,

Acting Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–31653 Filed 1–3–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–01]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 27, 2012.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2012–31526 Filed 1–3–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–WSFR–2012–N300; FVWF941009000007B–XXX–FF09W23000; FVWF511009000007B–XXX–FF09W23000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Annual Certification of Hunting and Sport Fishing Licenses Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on February 28, 2013. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before February 4, 2013.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Information Collection Clearance Coordinator, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email). Please include ''1018–0007'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0007.

Title: Annual Certification of Hunting and Sport Fishing Licenses Issued, 50 CFR 80, Subpart D.

Service Form Number(s): 3–154a and 3–154b.

Type of Request: Extension of a currently approved collection.

Description of Respondents: States, territories (Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, U.S. Virgin Islands, and American Samoa), and District of Columbia.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Annual Number of Respondents: 56.

Estimated Total Annual Responses: 112.

Estimated Time per Response: Average of 12 hours for FWS Form 3–154a and 20 hours for FWS Form 3–154b.

Estimated Total Annual Burden Hours: 1,792.

Abstract: The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.,* except 777e–1) provide authority for Federal assistance to the States for management and restoration of fish and wildlife. These Acts and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 80, subpart D, require that States, territories, and the District of Columbia annually certify their hunting and fishing license sales. States, territories, and the District of Columbia that receive grants under these Acts use FWS Forms 3–154a (Part I—Certification) and 3–154b (Part II—Summary of Hunting and Sport Fishing Licenses Issued) to certify the number and amount of hunting and fishing license sales. We use the information collected to apportion and distribute funds according to the formula specified in each Act.

Comments: On August 29, 2012, we published in the **Federal Register** (77 FR 52344) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on October 29, 2012. We received one comment in response to this notice. The respondent objected to the Wildlife Restoration Act, but did not address the information collection requirements. We did not make any changes to our requirements.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: December 27, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–31681 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000 L51010000.ER0000.WBSLVRWH09570; HAG–12–0154]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Vantage-Pomona Heights 230kV Transmission Line Project in Yakima, Grant, Benton, and Kittitas Counties, WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Vantage-Pomona Heights 230kV Transmission Line Project and by this notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Vantage-Pomona Heights 230kV Transmission Line Project by any of the following methods:

- *Email: BLM_OR_WN_Mail@blm.gov* (please reference Vantage to Pomona Heights EIS in the subject line).
- *Mail/hand-deliver to:* BLM Wenatchee Field Office, Attn: Vantage to Pomona Heights EIS, 915 Walla Walla Avenue, Wenatchee, Washington 98801–1521.
- *Fax:* 509–665–2121: Attention Vantage to Pomona Heights EIS Project Lead.

Copies of the Draft EIS are available at the BLM Wenatchee Field Office at the address listed above and electronically at the following Web site: *http://www.blm.gov/or/districts/spokane/plans/vph230.php*.

FOR FURTHER INFORMATION CONTACT: William Schurger, Realty Specialist, at 509–655–2100; or email: *BLM_OR_WN_Mail@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above

individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The project proponent, Pacific Power, has filed applications for rights-of-way with the BLM, the U.S. Department of Defense Joint Base Lewis McChord-Yakima Training Center (Yakima Training Center), and the U.S. Bureau of Reclamation (Reclamation) for construction, operation, and maintenance of a 230-kilovolt (kV) transmission line from Pacific Power's Pomona Heights substation located east of Selah, Washington, in Yakima County to the Bonneville Power Administration Vantage substation located just east of the Wanapum Dam in Grant County, Washington. The BLM is the Federal lead agency for the NEPA analysis process and preparation of the EIS. Cooperating agencies include: The Yakima Training Center; Reclamation; Bonneville Power Administration; Grant County and Yakima County, Washington; and the Washington State Department of Fish and Wildlife.

The proponent's interest in the new line is to enhance overall operating flexibility and security of the regional transmission grid and to improve system reliability in the Yakima Valley.

As suggested by Pacific Power, under all alternatives, most of the proposed transmission line would be constructed on H-Frame wood pole structures between 65- and 90-feet tall and spaced approximately 650 to 1,000 feet apart depending on terrain. In developed or agricultural areas, single wood or steel monopole structures would be used. The single pole structures would be between 80- and 110-feet tall and spaced approximately 400 to 700 feet apart. The right-of-way width for the H-Frame structure type would be between 125 to 150 feet and for the single pole structure type between 75 to 100 feet. For the Columbia River crossing either near the Midway substation or below the Wanapum Dam, steel lattice structures approximately 200-feet tall would be used to safely span the up to 2,800-foot crossing.

The eight alternative routes considered in the Draft EIS range from 61 to 67 miles in length. In addition to the proposed action, the Draft EIS considers the No Action alternative and identifies a preferred alternative. The preferred alternative would be 66.3 miles in length. This route would cross 5.4 miles of Federal lands managed by the BLM, 5.4 miles of Federal lands managed by Reclamation, 12.5 miles of Federal land managed by the Yakima Training Center, 1 mile of State land, 0.4 miles of water, and 41.6 miles of privately owned lands. Starting at the endpoint, the preferred route would run generally east from the Pomona Heights Substation near Selah, Washington, continuing eastward, south of the Yakima Training Center through Yakima County. The preferred route would then travel a short distance into Benton County before turning northward, where it would cross the Columbia River into Grant County. From there the route would run northward, partially along the N Road and then across the Saddle Mountains to the Vantage Substation, east of Wanapum Dam. Other system alternatives and route variations were considered but eliminated from detailed study.

The Draft EIS identifies measures to mitigate adverse impacts for the alternatives. Major issues brought forward during the public scoping process and addressed in the Draft EIS include:

(1) Land use conflicts and effects on agricultural operations and property values;

(2) Effects on wildlife habitat, plants, and animals including threatened, endangered, and sensitive species (especially sage-grouse);

(3) Effects to visual resources and existing view sheds;

(4) Effects to cultural resources;

(5) Effects to soils and water from surface-disturbing activities;

(6) Social and economic effects;

(7) Management and control of invasive plant species; and

(8) Public health and safety.

A Notice of Intent to prepare an EIS for the Vantage-Pomona Heights 230kV Transmission Line Project was published in the **Federal Register** on January 5, 2009 (75 FR 31240). Public participation was solicited through the media, mailings, and the BLM Web site. Public meetings were held in Selah and Mattawa, Washington.

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

Authority: 40 CFR 1506.6 and 1506.10.

Daniel C. Picard,

BLM Spokane District Manager.

[FR Doc. 2012–31609 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO910000–L10100000.PH0000]

Notice of the Joint Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Colorado Resource Advisory Council (RAC), Southwest RAC, and Front Range RAC will meet as indicated below.

DATES: The Northwest, Southwest and Front Range Colorado RACs have scheduled a joint meeting for February 13, 14 and 15, 2013. On February 13, the meeting will begin at 1 p.m. and adjourn at 5 p.m.; on February 14, the meeting will begin at 8 a.m. and adjourn at 5 p.m.; on February 15, the meeting will begin at 8 a.m. and adjourn at noon. The Northwest, Southwest and Front Range RACs will hold their individual RAC meeting on February 13 as follows: Northwest RAC 1–5 p.m. with a public comment period at 2:30 p.m.; Southwest RAC 2–5 p.m. with a public comment period at 3:15 p.m.; and Front Range RAC 1–5 p.m. with a public comment period at 1:15 p.m.

ADDRESSES: The Joint Colorado RAC meeting will be held at the Denver Marriott West Hotel, 1717 Denver West Boulevard, Golden, CO 80401.

FOR FURTHER INFORMATION CONTACT: Vanessa Lacayo, Public Affairs Specialist, BLM Colorado State Office, 2850 Youngfield St., Lakewood, CO 80215, telephone (303) 239–3681. You may also visit *www.blm.gov/co/st/en/BLM_Resources/racs.html.*

SUPPLEMENTARY INFORMATION: The Colorado RACs advise the Secretary of the Interior, through the BLM, on a variety of public land issues in Colorado. Topics of discussion during the RAC meeting may include working group reports, the National Landscape Conservation System strategy implementation, vegetation management, youth and veteran engagement and oil and gas

development. These meetings are open to the public. The public may present written comments to the RAC. There will also be time, as identified above, allocated for hearing public comments. Depending on the number of people who wish to comment during the public comment period, individual comments may be limited.

The Northwest RAC topics may include a discussion on the roles and responsibilities for sub-RAC members, the Grand Junction Resource Management Plan (RMP), an update on the Greater Sage-Grouse Environmental Impact Statement (EIS), the Draft White River Field Office RMP Amendment and field office updates.

The Southwest RAC topics may include the Uncompahgre RMP revision, the San Juan Supplement/Final EIS, drought and field office updates.

The Front Range RAC topics may include a follow-up discussion on the Cache Creek recreation area, an update on the National Natural Landmark designation for the Garden Park Fossil Area and an update on solar energy development in the San Luis Valley.

Dated: December 27, 2012.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2012–31679 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW164452]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW164452, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Hunt Oil Company for competitive oil and gas lease WYW164452 for land in Natrona County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW164452 effective January 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31604 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW172559]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW172559, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Nautilus Oil & Gas Company, LLC, for competitive oil and gas lease WYW172559 for land in Uinta County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW172559 effective April 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31610 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW164393]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW164393, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Linc Energy (Wyoming), Inc., for competitive oil and gas lease WYW164393 for land in Converse County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual.

You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW164393 effective January 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31601 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW145615]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW145615, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Meagher O&G Properties, Inc., for competitive oil and gas lease WYW145615 for land in Johnson County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW145615 effective August 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31603 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW172987]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW172987, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Tyler Rockies Exploration, Ltd., for competitive oil and gas lease WYW172987 for lands in Converse and Natrona County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $20 per acre, or fraction thereof, per year and 18⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW172987 effective August 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Carmen E. Lovett,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31607 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW161782]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW161782, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Carpenter & Sons, Inc., for competitive oil and gas lease WYW161782 for land in Carbon County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The

lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW161782 effective April 1, 2012, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–31608 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–MWR–IATR–10868; PPMWMWROW2/PPMPSAS1Y.YP0000]

Notice of Availability of the Final General Management Plan/Final Environmental Impact Statement for the Ice Age Complex at Cross Plains, WI

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final General Management Plan/Environmental Impact Statement (GMP/EIS) for the Ice Age Complex at Cross Plains in Cross Plains, Wisconsin.

DATES: The Final GMP/EIS will remain available for public review for 30 days following the publishing of the Notice of Availability in the **Federal Register** by the Environmental Protection Agency.

ADDRESSES: Copies of the GMP/EIS will be available to the public by request by writing to the Superintendent, Ice Age National Scenic Trail, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711. The document is available on the internet at the NPS Planning, Environment, and Public Comment Web site at *http://www.parkplanning.nps.gov/iatr.*

FOR FURTHER INFORMATION CONTACT: Superintendent John Madden, Ice Age National Scenic Trail, 700 Rayovac Drive, Suite 100, Madison, Wisconsin 53711, telephone (608) 441–5610.

SUPPLEMENTARY INFORMATION: We, the NPS, announce the availability of the Final GMP/EIS for the Ice Age Complex at Cross Plains, Wisconsin. This document is a joint state and federal effort addressing lands within the Cross Plains Unit of the Ice Age National Scientific Reserve as well as the Interpretive Site for the Ice Age National Scenic Trail; these lands are referred to as the ''Ice Age Complex at Cross Plains'' for the purpose of this planning effort.

This plan will guide the management of the Ice Age Complex at Cross Plains for the next 25 years. The Final GMP/EIS considers five draft conceptual alternatives—a no-action and four action alternatives, including the NPS preferred alternative. The Final GMP/EIS assesses impacts to soil resources, water quality, soundscapes, vegetation and wildlife, socioeconomics, and visitor use and experience.

The preferred alternative focuses on providing visitors with interpretation of the evolution of the complex from the last glacial retreat and opportunities to enjoy appropriate low-impact outdoor recreation. Ecological resources would largely be managed to reveal the glacial landscape. The most sensitive ecological areas would be carefully protected, and visitor access would be highly controlled in these areas. Visitors would experience a wide variety of indoor and outdoor interpretive programming. Under this alternative, the Ice Age Complex would serve as the headquarters for the Ice Age National Scenic Trail.

Dated: July 10, 2012.

Michael T. Reynolds,

Regional Director, Midwest Region.

[FR Doc. 2012–31678 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–MA–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2012–0083]

Potential Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) Offshore New York, Request for Interest

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Public notice of an unsolicited request for a commercial OCS wind lease, request for interest, and request for public comment.

SUMMARY: The purpose of this public notice is to: (1) Describe the proposal submitted to BOEM by the New York Power Authority (NYPA) to acquire an OCS wind lease; (2) solicit public input regarding the proposal, its potential environmental consequences, and the use of the area in which the proposed project would be located; and (3) solicit submissions of indications of competitive interest for a commercial lease for wind energy development on the OCS offshore New York for the area identified in this notice.

On September 8, 2011, BOEM received an unsolicited request from NYPA for a commercial wind lease on the OCS offshore New York. NYPA submitted its request on behalf of the ''Long Island-New York City Offshore Wind Collaborative,'' a public-private entity consisting of NYPA, the Long Island Power Authority, and Consolidated Edison Company of New York, Inc. The Collaborative's goal is to develop the proposed project to supply the Long Island and New York City region with renewable energy, consistent with New York State's and the City of New York's renewable energy initiatives. NYPA's proposed project, the ''Long Island-New York City Offshore Wind Project'', is designed to generate at least 350 megawatts (MW) of electricity from offshore wind resources, with the ability to expand generation capacity to as much as 700 MW. The project would be located approximately 11 nautical miles (nmi) south of Long Beach, New York, in water depths ranging from 60 to 120 feet. NYPA's unsolicited lease request, and an amendment filed on June 20, 2012, can be viewed at: *http://www.boem.gov/Renewable-Energy-Program/State-Activities/New-York.aspx.*

This request for interest is published pursuant to subsection 8(p)(3) of the OCS Lands Act, as amended by section 388 of the Energy Policy Act of 2005 (EPAct) (43 U.S.C. 1337(p)(3)), and the implementing regulations at 30 CFR 585.231(b). Subsection 8(p)(3) of the OCS Lands Act requires that OCS renewable energy leases, easements, and rights-of-way be issued ''on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.'' This request for interest provides such public notice for the proposed lease area requested by NYPA and invites the submission of indications of competitive interest. BOEM will consider the responses to this public notice to determine whether competitive interest exists for the area requested by NYPA, as required by 43 U.S.C. 1337(p)(3). Parties wishing to obtain a lease for the area requested by NYPA should submit detailed and specific information as described in the section entitled, ''Required Indication of Interest Information.''

This announcement also requests that interested and affected parties comment

and provide information about site conditions and multiple uses within the area identified in this notice that would be relevant to the proposed project or its impacts. A detailed description of the proposed lease area can be found in the section of this notice entitled, ''Description of the Area.''

DATES: If you are submitting an indication of interest in acquiring a lease for the area proposed by NYPA, your submission must be sent by mail, postmarked no later than March 5, 2013 for your submission to be considered. If you are providing comments or other submissions of information, you may send them by mail, postmarked by this same date, or you may submit them through the Federal eRulemaking Portal at *http://www.regulations.gov,* also by this same date.

Submission Procedures: If you are submitting an indication of competitive interest for a lease, please submit it by mail to the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170. Submissions must be postmarked by March 5, 2013 to be considered by BOEM for the purposes of determining competitive interest. In addition to a paper copy of your submission, include an electronic copy; BOEM considers an Adobe PDF file stored on a compact disk (CD) to be an acceptable format for submitting an electronic copy. BOEM will list the parties that submit indications of competitive interest on the BOEM Web site after the 60-day comment period has closed.

If you are submitting comments or other information concerning the proposed lease area, you may use either of the following two methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter BOEM–2012–0083, and then click ''search.'' Follow the instructions to submit public comments and view supporting and related materials available for this notice.

2. *Alternatively, comments may be submitted by mail to the following address:* Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170.

If you wish to protect the confidentiality of your submissions or comments, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in the section of this notice entitled ''Privileged or Confidential Information.'' BOEM will post all comments on regulations.gov unless labeled as confidential. Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew Krueger, Renewable Energy Program Specialist, BOEM, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, (703) 787–1320.

SUPPLEMENTARY INFORMATION:

Purpose of the Request for Interest

Responses to this public notice will allow BOEM to determine, pursuant to 30 CFR 585.231, whether or not there is competitive interest in acquiring an OCS commercial wind lease in the area requested by NYPA. In addition, this notice provides an opportunity for interested stakeholders to comment on the proposed lease area and the proposed project and any potential impacts the project may have.

If, in response to this notice, BOEM receives one or more indications of competitive interest for offshore wind energy development from qualified entities that wish to compete for the proposed lease area, BOEM may decide to move forward with the lease issuance process using competitive procedures pursuant to 30 CFR part 585. If BOEM receives no competing indications of interest, BOEM may decide to move forward with the lease issuance process using the non-competitive procedures contained in 30 CFR part 585.

If BOEM decides to proceed with issuing a lease in the proposed lease area, whether competitively or non-competitively, it may provide the public with additional opportunities to provide input pursuant to 30 CFR part 585 and applicable laws, such as the National Environmental Policy Act (NEPA). BOEM's competitive and noncompetitive leasing processes are described in 30 CFR part 585, subpart B.

Determination of Competitive Interest and Leasing Process

After the publication of this announcement, BOEM will evaluate indications of competitive interest for the area requested by NYPA for acquiring a commercial lease on the OCS. At the conclusion of the comment period for this public notice, BOEM will review the submissions received and undertake a completeness review for each of those submissions and a qualifications review for each of the nominating entities. BOEM will then make a determination as to whether competitive interest exists.

If BOEM determines that there is no competitive interest in the proposed lease area, it will publish in the **Federal Register** a notice that there is no competitive interest. At that point, BOEM may decide to proceed with the noncompetitive lease issuance process pursuant to 30 CFR 585.231, and NYPA would be required to submit any required plan(s). Whether following competitive or non-competitive procedures, BOEM will consult with the intergovernmental Task Force and will comply with all applicable requirements before making a decision on whether or not to issue a lease and approve, disapprove, or approve with modifications any associated plan(s). BOEM would coordinate and consult, as appropriate, with relevant Federal agencies, affected tribes, and affected state and local governments, in issuing a lease and developing lease terms and conditions.

Description of the Proposed Lease Area

The proposed lease area is located off the coast of Long Island, New York, beginning approximately 11 nmi south of Long Beach, New York. From its western edge, the area extends approximately 26 nmi southeast at its longest portion. The project area consists of 5 full OCS blocks and 19 partial OCS blocks. The entire area is approximately 127 square miles; 81,130 acres; or 32,832 hectares. Table 1 describes the OCS lease sub-blocks included within the area of interest.

The proposed lease area is located between two Traffic Separation Schemes (TSS) for vessels transiting into and out of the Port of New York and New Jersey. Because of its close proximity to shipping lanes, the U.S. Coast Guard recommended that a buffer zone—a minimum 1 nmi setback line from the adjacent TSS—be applied to the area. BOEM has adopted this recommendation and, for purposes of this request for interest, will not consider for leasing those aliquots between an adjacent TSS and the 1 nmi setback. However, BOEM is including aliquots that are transected by the setback line. No structures will be installed above the seabed on portions of those aliquots located within the setback.

TABLE 1—LIST OF OCS BLOCKS INCLUDED IN THE REQUEST FOR INTEREST

Protraction name	Protraction No.	Block No.	Sub block
New York	NK 18–12	6655	F,G,H,K,L,P.
New York	NK 18–12	6656	I,J,K,L,M,N,O,P.
New York	NK 18–12	6657	M,N,O,P.
New York	NK 18–12	6706	B,C,D,H.
New York	NK 18–12	6707	A,B,C,D,E,F,G,H,J,K,L,P.
New York	NK 18–12	6708	A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6709	E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6710	I,J,K,L,M,N,O,P.
New York	NK 18–12	6711	M,N,O,P.
New York	NK 18–12	6712	M.
New York	NK 18–12	6758	A,B,C,D,G,H.
New York	NK 18–12	6759	A,B,C,D,E,F,G,H,I,J,K,L,O,P.
New York	NK 18–12	6760	A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6761	A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6762	A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6763	A,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6764	A,E,F,G,H,I,J,K,M,N.
New York	NK 18–12	6810	A,B,C,D,G,H,L.
New York	NK 18–12	6811	A,B,C,D,E,F,G,H,I,J,K,L,O,P.
New York	NK 18–12	6812	A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P.
New York	NK 18–12	6813	A,B,C,D,E,F,G,H,I,J,M,N.
New York	NK 18–12	6814	A.
New York	NK 18–12	6862	A,B,C,D,E,F,G,H,K.
New York	NK 18–12	6863	A.

The boundary of the proposed lease area follows the points listed in Table 2 in clockwise order. Point numbers 1 and 73 are the same. Coordinates are provided in X, Y (eastings, northings) UTM Zone 18N, NAD 83 and geographic (longitude, latitude), NAD83.

TABLE 2—LIST OF BOUNDARY POINTS INCLUDED IN THE REQUEST FOR INTEREST

Point No.	X (Easting)	Y (Northing)	Longitude	Latitude
1	−73.628463	40.394074	616400	4472400
2	−73.586057	40.393563	620000	4472400
3	−73.586283	40.382755	620000	4471200
4	−73.529751	40.382050	624800	4471200
5	−73.529986	40.371243	624800	4470000
6	−73.473466	40.370510	629600	4470000
7	−73.473710	40.359703	629600	4468800
8	−73.417200	40.358943	634400	4468800
9	−73.417453	40.348137	634400	4467600
10	−73.360955	40.347350	639200	4467600
11	−73.361217	40.336543	639200	4466400
12	−73.304730	40.335729	644000	4466400
13	−73.305001	40.324922	644000	4465200
14	−73.234407	40.323866	650000	4465200
15	−73.234688	40.313060	650000	4464000
16	−73.178225	40.312184	654800	4464000
17	−73.178515	40.301379	654800	4462800
18	−73.164402	40.301155	656000	4462800
19	−73.164109	40.311961	656000	4464000
20	−73.121764	40.311281	659600	4464000
21	−73.122063	40.300476	659600	4462800
22	−73.079726	40.299780	663200	4462800
23	−73.080032	40.288975	663200	4461600
24	−73.094142	40.289209	662000	4461600
25	−73.094446	40.278403	662000	4460400
26	−73.108554	40.278635	660800	4460400
27	−73.108855	40.267830	660800	4459200
28	−73.122961	40.268059	659600	4459200
29	−73.123259	40.257254	659600	4458000
30	−73.137363	40.257482	658400	4458000
31	−73.137659	40.246676	658400	4456800
32	−73.165863	40.247127	656000	4456800
33	−73.166446	40.225515	656000	4454400
34	−73.180544	40.225738	654800	4454400
35	−73.180833	40.214932	654800	4453200
36	−73.194928	40.215153	653600	4453200
37	−73.195215	40.204347	653600	4452000

TABLE 2—LIST OF BOUNDARY POINTS INCLUDED IN THE REQUEST FOR INTEREST—Continued

Point No.	X (Easting)	Y (Northing)	Longitude	Latitude
38	−73.209308	40.204566	652400	4452000
39	−73.209593	40.193760	652400	4450800
40	−73.223684	40.193977	651200	4450800
41	−73.223402	40.204783	651200	4452000
42	−73.251589	40.205212	648800	4452000
43	−73.251033	40.226825	648800	4454400
44	−73.279230	40.227248	646400	4454400
45	−73.278957	40.238054	646400	4455600
46	−73.321260	40.238676	642800	4455600
47	−73.320993	40.249482	642800	4456800
48	−73.335097	40.249686	641600	4456800
49	−73.334832	40.260493	641600	4458000
50	−73.363044	40.260895	639200	4458000
51	−73.362783	40.271702	639200	4459200
52	−73.391001	40.272098	636800	4459200
53	−73.390744	40.282905	636800	4460400
54	−73.418967	40.283294	634400	4460400
55	−73.418715	40.294101	634400	4461600
56	−73.446942	40.294484	632000	4461600
57	−73.446695	40.305291	632000	4462800
58	−73.474927	40.305667	629600	4462800
59	−73.474684	40.316474	629600	4464000
60	−73.488802	40.316659	628400	4464000
61	−73.488561	40.327467	628400	4465200
62	−73.516803	40.327832	626000	4465200
63	−73.516567	40.338640	626000	4466400
64	−73.544814	40.338999	623600	4466400
65	−73.544582	40.349806	623600	4467600
66	−73.572834	40.350159	621200	4467600
67	−73.572606	40.360966	621200	4468800
68	−73.600863	40.361312	618800	4468800
69	−73.600639	40.372119	618800	4470000
70	−73.614770	40.372290	617600	4470000
71	−73.614549	40.383098	617600	4471200
72	−73.628682	40.383266	616400	4471200
73	−73.628463	40.394074	616400	4472400

Map of the Area

A map of the area proposed by NYPA and the area included in this request for interest can be found at the following URL: *http://www.boem.gov/Renewable-Energy-Program/State-Activities/New-York.aspx.* A large scale map of the proposed lease area showing boundaries of the area with the numbered blocks is available from BOEM at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, Phone: (703) 787–1320, Fax: (703) 787–1708.

Department of Defense Activities and Stipulations

The Department of Defense (DOD) conducts offshore testing, training, and operations on the OCS and may request site specific stipulations in the proposed lease area. BOEM will consult with the DOD regarding potential issues concerning offshore testing, training, and operational activities, and will develop appropriate stipulations to mitigate the effects of wind turbines on these activities in the proposed lease area.

Required Indication of Interest Information

If you intend to submit an indication of competitive interest for a lease for the area identified in this notice, you must provide the following:

(1) A statement that you wish to acquire a commercial wind lease within the proposed lease area. For BOEM to consider your indication of interest, it must include a proposal for a commercially viable wind power project of at least 350 MW nameplate capacity within the proposed lease area. Any request for a commercial wind lease located outside of the proposed lease area should be submitted separately pursuant to 30 CFR 585.230;

(2) A general description of your objectives and the facilities that you would use to achieve those objectives;

(3) A general schedule of proposed activities, including those leading to commercial operations;

(4) Available and pertinent data and information concerning renewable energy resources and environmental conditions in the area that you wish to lease, including energy and resource data and information used to evaluate the area of interest. Where applicable, spatial information should be submitted in a format compatible with ArcGIS 9.3 in a geographic coordinate system (NAD 83);

(5) Documentation demonstrating that you are legally qualified to hold a lease as set forth in 30 CFR 585.106 and 107. Examples of the documentation appropriate for demonstrating your legal qualifications and related guidance can be found in Chapter 2 and Appendix B of the Guidelines for the Renewable Energy Framework Guide Book available at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx.* Legal qualification documents will be placed in an official file that may be made available for public review. If you wish that any part of your legal qualification documentation be kept confidential, clearly identify what should be kept confidential, and submit it under separate cover (see ''Protection of Privileged or Confidential Information Section'', below); and

(6) Documentation demonstrating that you are technically and financially capable of constructing, operating, maintaining and decommissioning the facilities described in (2) above. Guidance regarding the documentation that could be used to demonstrate your technical and financial qualifications can be found at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx.* If you wish that any part of your technical and financial qualification documentation be kept confidential, clearly identify what should be kept confidential, and submit it under separate cover (see ''Protection of Privileged or Confidential Information Section'', below).

Your complete submission, including the items identified in (1) through (6) above, must be provided to BOEM in both paper and electronic formats. BOEM considers an Adobe PDF file stored on a CD to be an acceptable format for submitting an electronic copy.

It is critical that you provide a complete submission of competitive interest so that BOEM may consider your submission in a timely manner. If BOEM reviews your submission and determines that it is incomplete, BOEM will inform you of this determination in writing and describe the information that BOEM needs from you in order for BOEM to deem your submission complete. You will be given 15 business days from the date of the letter to provide the information that BOEM found to be missing from your original submission. If you do not meet this deadline, or if BOEM determines your second submission is also insufficient, BOEM may deem your submission invalid. In such a case, BOEM would not consider your submission.

Requested Information From Interested or Affected Parties

BOEM is also requesting from the public and other interested or affected parties specific and detailed comments regarding the following:

(1) Geological and geophysical conditions (including bottom and shallow hazards) in the area described in this notice;

(2) Historic properties potentially affected by the construction of meteorological towers, the installation of meteorological buoys, or commercial wind development in the area identified in this notice;

(3) Multiple uses of the area described in this notice, including but not limited to navigation (commercial and recreational vessel usage); commercial and recreational fishing; recreational resources (e.g., dive sites, wildlife viewing areas, and scenic areas); aviation; other energy related development activities; scientific research; and utilities and communications infrastructure.

(4) Other relevant environmental information, including but not limited to fisheries; protected species and habitats; marine mammals; sea turtles; birds; bats; zooplankton; and archaeological resources.

(5) Socioeconomic information, such as demographics and employment, or information relevant to environmental justice considerations.

Protection of Privileged or Confidential Information

Freedom of Information Act

BOEM will protect privileged or confidential information that you submit as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly mark it and request that BOEM treat it as confidential. BOEM will not disclose such information, subject to the requirements of FOIA. Please label privileged or confidential information, ''Contains Confidential Information,'' and consider submitting such information as a separate attachment.

However, BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such information. Additionally, BOEM will not treat as confidential: (1) The legal title of the nominating entity (for example, the name of your company); or (2) the geographic location of nominated facilities. Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

Section 304 of the National Historic Preservation Act (16 U.S.C. 470w–3(a))

BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate such information that they wish to be held as confidential.

Dated: December 28, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–31654 Filed 1–3–13; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–491–497 (Preliminary)]

Frozen Warmwater Shrimp From China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam; Institution of Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigations Nos. 701–TA–491–497 (Preliminary) under sections 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam of frozen warmwater shrimp, provided for in subheadings 0306.17.00, 1605.21.10 and 1605.29.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of China, Ecuador, India, Indonesia, Malaysia, Thailand, and Vietnam. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by February 11, 2013. The Commission's views are due at Commerce within five business days thereafter, or by February 19, 2013.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

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

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), 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.—These investigations are being instituted in response to a petition filed on December 28, 2012, by the Coalition of Gulf Shrimp Industries, Biloxi, MS.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on January 18, 2013, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with the Office of the Secretary (*William.Bishop@usitc.gov* and *Sharon.Bellamy@usitc.gov*) on or before January 16, 2013. Parties in support of the imposition of countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before January 24, 2013, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must 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.*

In accordance with sections 201.16(c) and 207.3 of the 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 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 31, 2012.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2012–31697 Filed 1–3–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–488 and 731–TA–1199–1200 (Final)]

Large Residential Washers From Korea and Mexico; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: *Effective Date:* December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202–205–3176), 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: On August 3, 2012, the Commission established a schedule for the conduct of the final phase of the subject investigations (77 FR 51569, August 24, 2012). The Commission is revising its schedule as follows: the Commission will make its final release of information on January 16, 2013 and final party comments are due on January 18, 2013.

For further information concerning these investigations see the Commission's notice cited above and 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).

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.

Issued: December 31, 2012.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2012–31703 Filed 1–3–13; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Advisory Committee on Rules of Criminal Procedure, Judicial Conference of the United States.

ACTION: Notice of cancellation of open hearing.

SUMMARY: **Federal Register** Citation of Previous Announcement: 77 FR 49828.

The following public hearing on proposed amendments to the Federal Rules of Criminal Procedure has been canceled: Criminal Rules Hearing, January 28, 2013, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Benjamin J. Robinson, Deputy Rules Officer and Counsel, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: December 31, 2012.

Benjamin J. Robinson,

Rules Committee Deputy and Counsel.

[FR Doc. 2012–31708 Filed 1–3–13; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of December 3, 2012 through December 7, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the

affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,923	GE Lighting, Inc., Ohio Lamp Plant, Including Workers From OSS, Inc.	Warren, OH	October 30, 2011.
81,923A	Randstad Working On-Site at GE Lighting, Inc., Ohio Lamp Plant	Warren, OH	August 24, 2011.
82,078	Amsted Rail Co., Inc., Kelly Services, Accountemps & Office Team, Partners Personnel, etc.	Granite City, IL	October 12, 2011.
82,157	Henkel-Harris Company, Inc., Manpower and Spherion Staffing LLC.	Winchester, VA	November 14, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,968	Verizon Business Networks Services, Inc., Senior Analysts-Sales Implementation (SA–SI).	Birmingham, AL	September 13, 2011.
81,968A	Verizon Business Networks Services, Inc., Senior Analysts-Sales Implementation (SA–SI), Service Program Delivery.	San Francisco, CA	September 13, 2011.
82,033	Avaya, Inc., Avaya Client Services (ACS) Portfolio and Operations.	Westminster, CO	October 1, 2011.
82,033A	Avaya, Inc., Avaya Client Services (ACS) Portfolio and Operations.	Highlands Ranch, CO	October 1, 2011.
82,033B	Avaya, Inc., Avaya Client Services (ACS) Portfolio and Operations.	Carrollton, TX	October 1, 2011.
82,064	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Hoover and Mobile, AL	September 13, 2011.
82,064A	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Dublin and Seven Other Cities, CA.	September 13, 2011.
82,064B	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	New Haven and Norwalk, CT	September 13, 2011.
82,064C	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Lake Mary, Miami, and Orlando, FL.	September 13, 2011.
82,064D	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Alpharetta and Atlanta, GA	September 13, 2011.
82,064E	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Chicago, Hoffman Estates, and Peoria, IL.	September 13, 2011.
82,064F	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Indianapolis, IN	September 13, 2011.
82,064G	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Framingham, MA	September 13, 2011.
82,064H	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Hanover, MD	September 13, 2011.
82,064I	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Southfield, MI	September 13, 2011.
82,064J	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Ballwin, Kansas City, and Saint Louis, MO.	September 13, 2011.
82,064K	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Charlotte, NC	September 13, 2011.
82,064L	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Bedminster and Six Others, NJ	September 13, 2011.
82,064M	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Akron, Brecksville, and Canton, OH.	September 13, 2011.
82,064N	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Oklahoma City, OK	September 13, 2011.
82,064O	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	King of Prussia and Philadelphia, PA.	September 13, 2011.
82,064P	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Allen and Seven Others, TX	September 13, 2011.

TA–W No.	Subject firm	Location	Impact date
82,064Q	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Spokane Valley, WA	September 13, 2011.
82,064R	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Waukesha, WI	September 13, 2011.
82,064S	AT&T Services, Inc., Information Technology Operations, Global Systems Hosting Application & Service Management.	Triadelphia, WV	September 13, 2011.
82,068	Stanadyne Corporation, Windsor Division, Infinistaff	Windsor, CT	October 10, 2011.
82,080	International Business Machines (IBM), Integrated Technology Services Ops, GTS Business Operations (GTS), Manpower.	Armonk, NY	October 11, 2011.
82,093	Korean Air Line Company LTD., American Regional Headquarters Call Center Division, Seoul of Korean Air.	Los Angeles, CA	October 17, 2011.
82,125	Honeywell International, Inc., Sensing and Control, Manpower and GDKN.	Mars Hill, NC	October 24, 2011.
82,128	SST Truck Company, LLC, Navistar, Inc., Employee Solutions, Populus, & ODW Contract Services.	Garland, TX	November 2, 2011.
82,132	Lattice Semiconductor Corporation, Infrastructure Business Unit ..	Hillsboro, OR	November 2, 2011.
82,132A	Lattice Semiconductor Corporation, Sales Department, Excluding Customer Service.	Hillsboro, OR	November 2, 2011.
82,132B	Lattice Semiconductor Corporation, Finance Department, Bolly Welch, Resources Connection, Slalom, etc.	Hillsboro, OR	November 2, 2011.
82,132C	Lattice Semiconductor Corporation, Corporate Marketing Department.	Hillsboro, OR	November 2, 2011.
82,135	The Hospital of Central Connecticut, The Central Connecticut Health Alliance.	New Britain, CT	November 6, 2011.
82,135A	The Hospital of Central Connecticut, The Central Connecticut Health Alliance.	Southington, CT	November 6, 2011.
82,139	Avery Dennison, Retail Branding and Information Solutions Division (RBIS), Adecco.	Lenoir, NC	September 3, 2012.
82,139A	Leased Workers From Manpower, Working On-Site At Avery Dennison, Retail Branding and Inform (RBIS).	Lenoir, NC	November 8, 2011.
82,147	Northwest Publications dba St. Paul Pioneer Press, Subsidiary Medianews Group, Advertising Production Division.	Saint Paul, MN	November 9, 2011.
82,150	Badger Meter, Inc	Milwaukee, WI	April 29, 2012.
82,150A	Teksystems, Working On-Site at Badger Meter, Inc	Milwaukee, WI	November 12, 2011.
82,153	Solae, LLC, Solae Holdings, G4S Secure, Alpha Mechanical, R&K, Robert P. James.	Louisville, KY	November 8, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,171	Pearson Education, Inc., Pearson Imaging Center	Upper Saddle River, NJ	November 21, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,100	NXP Semiconductors, Supply Chain Management Group	San Jose, CA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,826	Konarka Technologies	New Bedford, MA.	
81,826A	Konarka Technologies	Lowell, MA.	
82,142	Axle Tech International, A General Dynamics Company, OshKosh Division.	Oshkosh, WI.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
81,946	Verizon Business Network Services, Inc., Senior Analyst—Sales Implementation, Service Program Delivery Division.	San Francisco, CA.	

I hereby certify that the aforementioned determinations were issued during the period of *December 3, 2012 through December 7, 2012.* These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: December 12, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31661 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of December 10, 2012 through December 14, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group

eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,081	Teters Floral Products, Penmac Personnel	Bolivar, MO	October 12, 2011.
82,152	Systemax Manufacturing, Inc., Systemax, Inc., Manpower, Staffmark, Securitas Security Service USA, Inc.	Fletcher, OH	November 13, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,837	Avid Technology, Inc., Including On-Site Leased Workers From Advantage.	Burlington, MA	July 30, 2011.
82,090	Oce Reprographic Technologies	Phoenix, AZ	October 16, 2011.
82,145	Hutchinson Technology Incorporated	Eau Claire, WI	April 16, 2012.
82,145A	Hutchinson Technology Incorporated, Including On-Site Leased Workers from Atterro.	Plymouth, MN	November 9, 2011.
82,145B	Express Employment Professionals, Working On-Site at Hutchinson Technology Incorporated.	Eau Claire, WI	November 9, 2011.
82,145C	Doherty Staffing Solutions, Working On-Site at Hutchinson Technology Incorporated.	Eau Claire, WI	November 9, 2011.
82,146	Precision Dynamics Corporation	San Fernando, CA	August 3, 2012.
82,154	Gemesis Diamond Company	Bradenton, FL	November 13, 2011.
82,162	Crane Payment Solutions, Inc., Operations Department, Randstad.	Salem, NH	November 19, 2011.
82,162A	Crane Payment Solutions, Inc., Engineering Department, Entegee.	Salem, NH	November 19, 2011.
82,178	KEMET Electronics Corporation, Accounts Payable Department, Accounts Receivable Department.	Simpsonville, SC	November 26, 2011.
82,185	New Process Gear, Magna Powertrain Division, Magna International Inc., ABM Janitorial, etc.	East Syracuse, NY	January 8, 2013.
82,185A	EEP Quality Group, Inc., Working On-Site at New Process Gear	East Syracuse, NY	November 27, 2011.
82,187	Cequent Performance Products, Inc., Trimas Corporation, Forge Industrial Staffing, Elwood.	Goshen, IN	November 28, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1)(employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,885	NCO Financial Systems, Inc., Utilities Division, Expert Global Services (EGS).	Jackson, MI.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,113	SGL Carbon, LLC, Reflex Staffing Services and Manpower	St. Marys, PA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,920	Kronotex USA Holdings, Inc., Krono Holding AG, Kelly Services, MAU Workforce Solutions, Phillips, etc.	Barnwell, SC.	
82,110	Hewlett Packard Company, Worldwide Legal Ethics Division	Wayland, MA.	
82,137	Naugatuck Valley Surgical Center, Department of Saint Mary's Hospital.	Waterbury, CT.	
82,202	Verizon Wireless	Southfield, MI.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,164	Karastan, Division of Mohawk Industries, Inc	Eden, NC.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,119	Hewlett-Packard Company, Printing & Personal Systems (PPS), IWS, DDO, ISB, IPS.	Corvallis, OR.	
82,133	Hewlett-Packard Company, Printing and Personal Systems, Supply Chain Operations Business.	Vancouver, WA.	
82,218	ODW Contract Services, Working On-site at SST Truck Company, LLC, a Navistar, Inc. Company.	Garland, TX.	

I hereby certify that the aforementioned determinations were issued during the period of *December 10, 2012 through December 14, 2012*. These determinations are available on the Department's Web site tradeact/taa/taa search form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: December 18, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31657 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of November 26, 2012 through November 30, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles

incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,898	Color Service, Inc	Monterey Park, CA	August 15, 2011.
82,047	Ormet Primary Aluminum Corporation, I.C. Staffing Solutions LLC and Winans Services.	Hannibal, OH	October 22, 2012.
82,067	Dal-Tile Corporation, Mohawk Industries, Inc	Olean, NY	October 9, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,014	HCL America Inc., On-Site at Advanstar Communications, Inc., HCL Technologies Limited.	Duluth, MN	September 26, 2011.

TA–W No.	Subject firm	Location	Impact date
82,076	Manitowoc Foodservice, Lincoln Foodservice Division, Mantowoc Company.	Fort Wayne, IN	June 9, 2012.
82,076A	Leased Workers from Aerotek and Top Echelon Network, Mantowoc Foodservice, Lincoln Foodservices Division.	Fort Wayne, IN	October 12, 2011.
82,079	WellPoint Inc., Anthem Blue Cross Blue Shield, Virginia Local Claims Division.	Richmond, VA	October 12, 2011.
82,079A	WellPoint Inc., Anthem Blue Cross Blue Shield, Virginia Local Claims Division.	Roanoke, VA	October 12, 2011.
82,088	Deloitte Tax LLP, Deloitte LLP	Los Angeles, CA	October 16, 2011.
82,089	Billings Gazette, Lee Enterprises, Inc	Billings, MT	October 15, 2011.
82,131	Newell Operating Company dba Ashland Hardware, Newell Rubermaid, Inc., Manpower, Spartan Staffing and Adecco.	Lowell, IN	November 5, 2011.
82,134	United Chemi-Con, Inc., Nippon Chemi-Com Corp., Kelly Temporary Services, Industrial Pipe, etc.	Lansing, NC	November 6, 2011.
82,140	Comcast Cable, West Division Customer Care	Livermore, CA	October 11, 2011.
82,141	Kontron America, Inc., CPBU Division, Additional Contract Services and Johnson Services Group.	Columbia, SC	November 8, 2011.
82,148	Texas Instruments Incorporated, HFAB sand HBUMP Manufacturing and Testing, Volt Workforce Solutions.	Stafford, TX	November 9, 2011.
82,161	Remington Medical, Inc., Ranstad, Express Personnel, Global Employment and Hire Dynamics.	Alpharetta, GA	November 15, 2011.
82,163	Delphi Connection Systems US, Inc., Delphi Corporation, Manpower, UI/Wages FCI Automotive USA, Inc.	Mount Union, PA	January 23, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,950	Fortis Plastics, LLC	Wilmington, OH	September 6, 2011.
82,099	Air Products and Chemicals Inc	Sparrows Point, MD	October 18, 2011.
82,127	Esteves Group, LLC—South Division	Randleman, NC	October 30, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,891	Sheridan Books, Inc.	Chelsea, MI.	
81,963	Alternative Petroleum Technologies, Eco Energy Solutions	Reno, NV.	
81,965	Melco Engraving, Inc.	Rochester Hills, MI.	
81,975	Xerox Corporation, Solid Ink Development Group, Global Technology Development Group.	Wilsonville, OR.	

I hereby certify that the aforementioned determinations were issued during the period of *November 26, 2012 through November 30, 2012*. These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: December 4, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31664 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,815]

Hartford Financial Services Group, Inc., Commercial/Actuarial/Information Delivery Services (IDS)/Corporate & Financial Reporting Group, Hartford, CT; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated September 17, 2012, a state workforce representatives requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Hartford Financial Services Group, Inc., Commercial/Actuarial/Information Delivery Services (IDS)/Corporate & Financial Reporting group, Hartford, Connecticut (The Hartford-IDS Group). The determination was issued on August 2, 2012. The determination was corrected on September 19, 2012 to clarify the basis for the negative determination.

The Hartford-IDS Group is engaged in activities related to the supply of financial services. Specifically, the workers provide business and

information technology applications for corporate, regulatory, and financial reporting. The group develops databases for creating reports for corporate, regulatory, and financial services. The group is separately identifiable from other groups at the firm.

The initial investigation resulted in a negative determination based on the findings that with respect to Section 222(a) and Section 222(b) of the Act, Criterion (1) has not been met because a significant number or proportion of the workers in such workers' firm have not become totally or partially separated, nor are they threatened to become totally or partially separated.

Significant number or proportion of the workers means that: (a) In most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or (b) At least three workers' in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected (29 CFR 90.2).

The request for reconsideration states that ''The Hartford Financial Services employs nearly 10,000 employees in Connecticut. The majority work full-time hours and are employed at the 690 Asylum Ave, Hartford, Connecticut site, the location of the petition in question * * * According to a former employee for whom the 81,815 was filed, his Unit was an independent unit isolated from others, but the information prepared by his unit, the database, was used by many units within The Hartford. His particular Unit encompassed roughly 75 employees. While only a few workers have been laid off to date in the specific unit, the database was used by many units, including units that have been TAA-certified.''

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to clarify the subject worker group and to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 4th day of December 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31665 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,929]

Joy Global, Inc., Also Known as Joy Technologies, Inc., Including On-Site Leased Workers From All Seasons Temporaries and Manpower, Franklin, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated November 8, 2012, the International Association of Machinists and Aerospace Workers, District Lodge No. 98, requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Joy Global, Inc., also known as Joy Technologies, Inc., including on-site leased workers from All Seasons Temporaries and Manpower, Franklin, Pennsylvania (Joy Global). The determination was issued on October 16, 2012. The workers' firm is engaged in activities related to the production of mobile underground mining machines and repair components. Workers are not separately identifiable by product.

The initial investigation resulted in a negative determination based on the findings that, with respect to Section 222(a)(2)(A)(i) of the Act, Joy Global has not experienced a decline in the sales or production of mobile underground mining machines and repair components during the relevant period under investigation.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that Joy Global did not shift the production of mobile underground mining machines and repair components or a like or directly competitive article to a foreign country or acquire mobile underground mining machines and repair components or a like or directly competitive article from a foreign country. Although workers of Joy Technologies, Inc., Mt. Vernon, Illinois (TA–W–57,700) were eligible to apply for TAA based on a shift in production of mining machinery components to Mexico, the investigation revealed that worker separations at the subject firm were not caused by a shift in production of mobile underground mining machines or repair components to a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that Joy Global is not a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a) and does not act as a Downstream Producer to a firm (or subdivision, whichever is applicable) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act, have not been satisfied since the workers' firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration included information regarding a possible shift in production.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to clarify the subject worker group and to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 6th day of December 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31662 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,846; TA–W–81,846A; TA–W–81,846B; TA–W–81,846C; TA–W–81,846D]

Goodman Networks, Inc. Core Network Engineering (Deployment Engineering) Division Alpharetta, GA; Goodman Networks, Inc. Core Network Engineering (Deployment Engineering) Division Hunt Valley, MD; Goodman Networks, Inc. Core Network Engineering (Deployment Engineering) Division Naperville, IL; Goodman Networks, Inc. Core Network Engineering (Deployment Engineering) Division St. Louis, MO; Goodman Networks, Inc. Core Network Engineering (Deployment Engineering) Division Plano, TX; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated October 26, 2012, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division, Alpharetta, Georgia (TA–W–81,846), Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division, Hunt Valley, Maryland (TA–W–81,846A), Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division, Naperville, Illinois (TA–W–81,846B), Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division, St. Louis, Missouri (TA–W–81,846C), and Goodman Networks, Inc., Core Network Engineering (Deployment Engineering) Division, Plano, Texas (TA–W–81,846D). The determination was issued on September 28, 2012.

Workers at the subject firm are engaged in activities related to the supply of services of installation specification writing and maintenance customer record drawings for the installation of telecom equipment.

The initial investigation resulted in a negative determination based on the findings that, with respect to Section 222(a)(2)(A)(ii) of the Act, the firm and customers did not import services like or directly competitive with the services provided by the subject firm.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that the subject firm did not shift the supply of services of installation specification writing and maintenance customer record drawings for the installation of telecom equipment, or a like or directly competitive service, to a foreign country or acquire the supply of services of installation specification writing and maintenance customer record drawings for the installation of telecom equipment, or a like or directly competitive service, from a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that the subject firm is not a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

With respect to Section 222(b)(2) of the Act, the investigation revealed that Goodman does not act as a Downstream Producer to a firm (subdivision, whichever is applicable) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act, have not been satisfied since the workers' firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration included information regarding a possible shift in the supply of services to a foreign country.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to clarify the subject worker group and to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of December 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31659 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,673]

Weather Shield Manufacturing, Inc., Corporate Office, Medford, WI; Notice of Negative Determination on Third Remand

On May 31, 2012, the United States Court of International Trade (USCIT) ordered the United States Department of Labor (Department) to conduct further investigation in *Former Employees of Weather Shield Manufacturing, Inc.* v. *United States Secretary of Labor* (Court No. 10–00299).

The group eligibility requirements for workers of a firm under Section 222(a) of the Trade Act of 1974, as amended (the Act), 19 U.S.C. 2272(a), can be satisfied if the following criteria are met:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) The sales or production, or both, of such firm have decreased absolutely;

(ii)(I) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) Imports of articles like or directly competitive with articles—

(aa) Into which one or more component parts produced by such firm are directly incorporated, or

(bb) Which are produced directly using services supplied by such firm, have increased; or

(III) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B)(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) Such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) The shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Background

The initial investigation began on October 23, 2009 when three workers filed a petition for Trade Adjustment Assistance (TAA) on behalf of workers and former workers of the Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin (subject facility). Workers at the subject facility (subject worker group) supply administrative support services related to the production of doors and windows at various domestic locations of Weather Shield Manufacturing, Inc. (hereafter referred to as ''subject firm'' or ''Weather Shield'').

29 CFR 90.2 states that ''Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period. The representative base period shall be one year consisting of the four quarters immediately preceding the date which is the twelve month prior to the date of the petition.'' As such, the relevant time period for this investigation is October 2008 through September 2009, and the representative base period is October 2007 through September 2008 (hereafter referred to as ''relevant time period'' or ''period under investigation'').

The initial investigation revealed that neither the subject firm nor its customers increased import purchases of either doors or windows (or like or directly competitive articles) during the relevant time period. Additionally, the subject firm had not shifted abroad either the production of these articles or services like or directly competitive with those supplied by the worker group in the period under investigation. As such, the group eligibility requirements were not satisfied, and the Department issued a negative determination on July 16, 2010. The Department's Notice of Negative Determination was published in the **Federal Register** on August 2, 2010 (75 FR 45163). Updated Administrative Record (UAR) 611. The Department filed the UAR with the USCIT on October 31, 2011.

By application dated August 23, 2010, one of the petitioners requested administrative reconsideration of the Department's negative determination. In the application, the petitioner stated that the worker group covered by petition TA–W–72,673 was impacted by the same import competition as the worker group covered by TAA certification TA–W–64,725, which was issued on August 9, 2010 (Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin; petition dated December 17, 2008) and argued that the same conclusion awarding worker adjustment assistance should be applied in the case at hand. However, because it was determined that a different relevant time period was at issue which resulted in a different conclusion, the Department determined that the determination in TA–W–64,725 was not controlling.

Because the Department determined that administrative reconsideration could not be granted, a Notice of Negative Determination Regarding Application for Reconsideration was issued on September 10, 2010, in accordance with 29 CFR 90.18(c). The Department's Notice of Negative Determination Regarding Application for Reconsideration was published in the **Federal Register** on September 21, 2010 (75 FR 57519). UAR 653.

Subsequently, the petitioners filed a complaint with the USCIT on October 8, 2010, and argued the same allegations as in their request for administrative reconsideration. The Department determined that further investigation under judicial review was unjustified and filed an administrative record of the materials upon which the Department relied in making its determination with regards to the subject worker group's eligibility to apply for TAA.

In Plaintiffs' Motion to Supplement the Administrative Record, dated March 30, 2011, Plaintiffs indicated that the administrative record did not include documentation that adequately supported the negative determination and submitted additional information to be considered by the Department to show that Weather Shield faced import competition.

First Remand Activity

On May 2, 2011, the Department filed a Motion for Voluntary Remand in which it sought to supplement the administrative record with documentation that was used in the decision making process for case TA–W–64,725 and explain the relevance of this material. At that time, the Department did not seek to conduct further investigation. Rather, the Department amended the administrative record on June 3, 2011 to include documents from case TA–W–64,725 and supplemented the record with an explanation regarding the relevance of these documents.

The Plaintiffs filed a Memorandum of Points and Authorities in Support of Plaintiffs' Amended Motion for Judgment on the Agency Record on July 5, 2011 in which they asked the Department to conduct further investigation and apply the same methodology for administering customer surveys and determining import competition as in the TA–W–64,725 remand investigation. Specifically, the Plaintiffs stated that the Department should collect additional information from the subject firm's customers and competitors.

Second Remand Activity

On August 3, 2011, the Department requested a second voluntary remand to conduct further investigation, to permit the Plaintiffs to submit additional evidence, and to supplement the administrative record with all the contents of the TA–W–64,725 case record. During the second remand investigation, the Department collected additional information from the subject firm, conducted an expanded customer survey, collected aggregate U.S. import data, and sought input from the Plaintiffs.

The Department found that imports of Weather Shield's customers had declined during the relevant time period. The updated data also revealed that, contrary to information that had been provided previously, the subject firm's total sales for the relevant time period increased. As such, the Department determined that worker separations were not related to trade impact and reaffirmed the negative determination regarding TAA eligibility. On October 11, 2011 the Department issued a Negative Determination on Remand. The Department's Notice of Negative Determination was published in the **Federal Register** on November 15, 2011 (76 FR 70761). Supplemental Updated Administrative Record (SUAR) 501–505.

Third Remand Activity

On December 2, 2011, Plaintiffs filed a Memorandum of Points and Authorities in Support of Plaintiffs' Second Amended Motion for Judgment on the Agency Record. The Plaintiffs contended that the Department had not fully investigated the change in sales reported by Weather Shield; had not fully investigated if Weather Shield lost business to competitor Simpson Door Company, whose workers were eligible to apply for TAA under TA–W–65,585; and that the Department did not contact the domestic suppliers of a major customer of the subject firm to determine whether the suppliers sold imported articles to the customer, which could have created import competition for the subject firm.

On February 3, 2012, the Department filed Defendant's Response in Opposition to Plaintiffs' Second Amended Motion for Judgment on the Agency Record. In the response, the

Department explained the basis of the negative determination. In particular, the Department reiterated that during the relevant time period, customer imports and U.S. aggregate imports declined, both in absolute and relative terms, and again emphasized that the sales of the subject firm increased during the relevant time period.

On February 22, 2012, Plaintiffs filed a Reply Brief in Support of Plaintiffs' Second Amended Motion for Judgment on the Agency Record in which they stated that the Department failed to investigate conflicting information provided by Weather Shield during the initial and first remand investigations of this petition regarding its overall sales of doors and windows in the relevant time period; pointed to possible import competition by alleged Weather Shield competitor, Simpson Door Company; stated that the Department failed to investigate if imports by Simpson could have impacted operations at the subject firm; and alleged that the Department did not investigate sufficiently whether a major customer of the subject firm had purchased imported doors and/or windows indirectly through its other domestic suppliers during the relevant time period.

On May 31, 2012, the USCIT filed a Memorandum and Order that stated that the Department's decision cannot be sustained as it does not explain the change in Weather Shield's reported sales information supplied by the subject firm. Additionally, the Memorandum stated that the investigation did not adequately address whether the customer purchased imported product from its other suppliers. The USCIT remanded the case to the Department to ''review and reconsider its explanation for the differences in Weather Shield's sales for 2008; as well as its conclusions related to import volumes.''

Activity Related to Weather Shield's 2008 Sales Data

Pursuant to the May 31, 2012 Order, the Department again solicited information from Weather Shield regarding its sales for 2008 and 2009. In order to ensure the accuracy of the information collected from the subject firm throughout this investigation on which this determination is based, the Department requested and received an Affirmation of Information, signed under penalty of law, by the official representative of the subject firm. SUAR 170–173, 174–178.

Because the two sets of sales data provided by the subject firm during the earlier investigations were not identical, the Department requested that the subject firm provide an explanation regarding the discrepancy between the two sets of data along with the correct sales information. SUAR 2–26, 27–31. In order to determine if sales or production declined during the relevant time period, the Department also solicited information regarding Weather Shield's production data during the same time period. SUAR 35–39. The findings confirmed that, in terms of value, Weather Shield sales increased from 2008 to 2009. SUAR 32, 81.

In order for the Department to obtain from the subject firm production information regarding its total 2008 and 2009 doors and window units and to resolve any inconsistencies, on July 6, 2012, the Department filed its first motion for an enlargement of time. The time extension was also requested at this time to allow for the collection and analysis of the customer's supplier responses. On July 9, 2012, the USCIT granted the Department's request for a time enlargement that extended the deadline for filing the results to August 15, 2012.

On July 19, 2012, the subject firm reported that production of doors and windows at the manufacturing locations which received the administrative support services of the subject worker group declined from 2008 to 2009. SUAR 40–45. The Department asked the subject firm to provide an explanation regarding the reason that a sales increase occurred while production declined. SUAR 40–45, 46–65, 66–71, 72–77, 78–80.

On August 6, 2012, the Department served Weather Shield with a subpoena to explain why the subject firm reported an increase in the value of sales of windows and doors for the same period (calendar year 2008 to calendar year 2009) that it reported a decrease in the production of these articles. SUAR 72–77.

Although Weather Shield reported that the sales information which was provided during the second remand was correct, SUAR 81, the Department sought further explanation of the seemingly inverse relationship between sales and production. The subject firm affirmed that total sales of doors and windows for 2008 and 2009 had increased. SUAR 32, 81. The subject firm also stated that the production numbers submitted earlier were provided in error and that they had submitted updated and accurate information. SUAR 81.

On August 14, 2012, the Department filed a motion for a second enlargement of time of 60 days to continue the remand investigation. The Plaintiffs consented to the motion filed for the time enlargement provided that they receive any new relevant information provided by Weather Shield and to be given opportunity to comment.

In accordance with the August 22, 2012 Order, the Department submitted to the Plaintiffs information that consisted of email correspondence between the Department and the subject firm that took place between June 14, 2012 and August 8, 2012 and the subpoena served on August 6, 2012. SUAR 295–378.

On September 17, 2012, Plaintiffs provided comments on the released information, along with new import information. SUAR 382–386. The Plaintiffs stated that the information was insufficient for the following reasons: the record did not establish that all manufacturing locations and products manufactured by the subject firm were included in the sales and production figures; the Department had not demonstrated that the subject firm understood the questions posed and the type of information that had been requested, which had caused responses to be insufficient or incorrect; and that the subject firm had not provided accurate data regarding its imports of finished goods. SUAR 382–386.

The Plaintiffs also argued that it is unclear from the record how many of the subject firm's production facilities are covered under this investigation. SUAR 382–386. Specifically, the Plaintiffs point out that, during the second remand investigation, the Department found that, although the subject firm pointed to five production locations that were supported by the corporate headquarters during the initial investigation, the Department later received information that the corporate headquarters supported ten production facilities. UAR 17–22, 779–782. SUAR 174–178, 179–183, 184–186.

The Plaintiffs' comments regarding the five locations were derived from information that was submitted by the subject firm during the initial investigation of TA–W–64,735. UAR 17–22. That information was updated after the conclusion of the investigation of TA–W–64,735, and, during the second remand investigation of TA–W–72,673, the subject firm submitted a list of the ten production facilities that were supported by the subject worker group and fall within the scope of this investigation. UAR 779–782. SUAR 174–178, 179–183, 184–186.

As attested by the subject firm official and reflected in the record, the third remand investigation covered the locations supported by the subject worker group and all the products manufactured at those locations; the

subject firm showed that it was fully aware of which locations and products it was providing information; and that the subject firm confirmed that it did not import doors or windows (or like or directly competitive articles) during the period under investigation. UAR 779–782, 787, 789, 793–794, 796, 800, 820–821. SUAR 2–26, 27–31, 32–34, 35–39, 174–178, 179–183, 184–186.

The Plaintiffs asked the Department to obtain from the subject firm evidence that the information submitted to the Department during this investigation was accurate and complete. SUAR 382–386. In particular, the Plaintiffs suggested that hard copies or electronic screen shots of accounting records would be beneficial in supporting the findings. SUAR 382–386.

As noted earlier, the Department received from the subject firm's representative a signed Attestation. Therefore, the Department's reliance upon information supplied by the subject firm during the third remand investigation is reasonable. Nonetheless, the Department reviewed the record and determined that any inconsistencies that Plaintiffs raised were already resolved based on the record through the investigation by the Department and, consequently, that a review of the subject firm's financial records are not necessary.

Regarding the Plaintiff's claims of inaccuracy and inconsistency of the investigation, the Department identified information that is already part of the record to address the allegations and collected additional information from the subject firm. UAR 779–782, 787, 789, 793–794, 796, 800, 820–821. SUAR 2–26, 27–31, 32–34, 35–39, 174–178, 179–183, 184–186.

To further support their argument regarding the inaccuracy of Weather Shield's import information, the Plaintiffs provided data from a trade publication. Specifically, the Plaintiffs submitted a bill of lading report from Zepol Corporation (*www.zepol.com*) that showed Weather Shield as an importer of doors and Windows. SUAR 386. Although the document did not list Weather Shield as the importer or consignee of foreign goods, it indicated that Weather Shield, specifically its Park Falls, Wisconsin facility, was the ultimate recipient of the imported products. SUAR 386.

The Department contacted the subject firm to obtain further information to address Plaintiff comments regarding the bill of lading. SUAR 83–98. Specifically, the Department again solicited information to confirm that the subject firm did not import doors and/or windows, or like or directly competitive articles, during the relevant time period. SUAR 83–98. The Department also requested that the subject firm provide information on its domestic vendors and to address the information submitted by the Plaintiffs from zepol.com. SUAR 83–98, 100–101, 102–104, 141, 142–143, 144–145, 146–147, 148–149.

The subject firm responded that the importer and consignee listed on the bill of lading document is a domestic vendor that supplies the subject firm with articles that are neither like nor directly competitive with either windows or doors. SUAR 99, 105–140 150–152. The subject firm confirmed that it does not conduct business with any foreign firms, including the one listed on the bill of lading under the exporter column. SUAR 105–140, 150–152, 177–178.

The Department asked the subject firm to provide more detailed information on the relationship between the subject firm and the vendor listed on the bill of lading document, as well as provide information on any relationships with any other foreign firms during the relevant time period. SUAR 83–98, 99, 100–101, 102–104, 142–143, 144–145, 150–152. The subject firm stated that the vendor provided articles that are neither like nor directly competitive with either windows or doors, confirmed that Weather Shield does not purchase window or door units from vendors, and stated that the subject firm does not have information pertaining to the origin of the products purchased from vendors. SUAR 83–98, 99, 100–101, 102–104, 142–143, 144–145, 150–152. The subject firm explained that it does not purchase from vendors finished doors or windows and submitted a list of its top twenty vendors for 2008 and 2009. SUAR 105–140. The list included vendors that supplied services and articles other than doors and windows. SUAR 150–152.

In addition to the information collected from the subject firm regarding the new allegations, the Department conducted its own trade records search on zepol.com. SUAR 481–482, 485–488. The search did not expose any import information relating to the subject firm for the relevant time period. SUAR 481–482, 485–488.

On October 2, 2012, the Department released more information to the Plaintiffs. The information included email correspondence between the Department and the subject firm that occurred between September 21, 2012 and October 1, 2012. SUAR 389–464.

On October 12, 2012, the Department filed a third motion for an enlargement of time. The motion stated that the Department required an extension to allow Plaintiffs to review and comment on the information provided by Weather Shield on October 2, 2012 (the second release of information to Plaintiffs), and, once comments are received, to analyze the comments, to collect further information as needed, and to file its remand findings. The USCIT granted the Department until December 17, 2012 to file the Department's third remand results and the supplemental updated administrative record.

On October 15, 2012, Plaintiffs submitted comments regarding the second information release. The comments provided by the Plaintiffs were erroneous on several counts. SUAR 467–469.

First, the Plaintiffs misunderstood the time periods for which information was collected and stated that the subject firm provided information for its vendors for 2007 and 2008. SUAR 467–469. The record evidence covers periods 2008 and 2009, which is the period under investigation.

Additionally, the Plaintiffs claimed that Weather Shield provided information regarding only one of its vendors. SUAR 467–469. This is inaccurate because Weather Shield had provided information regarding its top twenty vendors and confirmed that it does not purchase from vendors finished door or window products. SUAR 105–140, 150–152. Further, the Plaintiffs misunderstood the Department's intent when it questioned the subject firm regarding one vendor in more detail because the name of this vendor was found on the trade publication submitted by the Plaintiffs. SUAR 83–98. According to the information received from the subject firm, the vendor provided articles that are neither like nor directly competitive with either windows or doors to Weather Shield. Therefore, any such imports could not have contributed to a decline in employment and sales or production at the subject firm. Imports of articles other than doors or windows (or like or directly competitive articles) fall outside the scope of this investigation.

Additionally, the Plaintiffs stated that the Department should have solicited information from the subject firm regarding its imports of articles. SUAR 467–469. At the time the comments were submitted, Plaintiffs were informed that Weather Shield had confirmed that it did not import finished doors or windows (or like or directly competitive articles). This information was part of the October 2, 2011 information release. SUAR 389–464.

Activity Related to Weather Shield's Customer and Its Suppliers

During the initial investigation of this petition, the Department conducted a customer survey on the customers of the subject firm to determine if the layoffs at Weather Shield were the result of increased import competition. UAR 562–565, 566–572, 573–575, 576–578, 579–581, 582, 679–738. A sample group of the subject firm's customers were surveyed regarding their purchases of doors and/or windows made in the relevant time period from the subject firm, other domestic firms, and foreign firms. The Department repeated a larger survey during the second remand that captured the majority of the subject firm's customer base during the period under investigation. UAR 1243–1319, 1325–1344. Both surveys demonstrated that customer imports declined during the relevant time period.

The results of the second remand investigation's customer survey showed that purchases made by the surveyed customers from the subject firm declined. UAR 1243–1319, 1325–1344. Purchases made by these customers from other domestic and foreign firms also declined. UAR 1243–1319, 1325–1344. Specifically, in the second survey conducted during the remand investigation, the Department captured 73 percent of the subject firm's customer base, in terms of value, in 2008 and 46 percent in 2009. UAR 1243–1319, 1325–1344. During the surveyed period, customer imports declined 20 percent. UAR 1243–1319, 1325–1344. The survey conducted on Weather Shield's customers also showed that total customer imports declined 63 percent from 2008 to 2009. UAR 1325–1344.

At the time of this customer survey, the subject firm had submitted information to the Department that indicated a decline of total sales of doors and windows from 2008 to 2009. UAR 585, 673. However, it was revealed in the second remand that overall sales of the subject firm increased. UAR 815.

In the customer survey that was conducted during the initial investigation of this petition, one (and the largest) of Weather Shield's customers (for confidentiality purposes, this customer will hereafter be referred to as ''the customer'') was unable to provide a response to question #2 on the Business Confidential Customer Survey (OMB #1205–0342, Exp. 1/31/2013) which asks if the products purchased from other domestic firms were manufactured in a foreign country. UAR 562–565, 566–572.

The information that this significant customer provided on the survey showed that its purchases from the subject firm declined from 2008 to 2009. The customer's purchases from other domestic and foreign firms also declined during the same period. UAR 562–565, 566–572.

To determine whether the subject firm may have competed with imported doors and/or windows of the other domestic suppliers of the customer, the Department followed up with the customer during the second remand to solicit information regarding the origin of the articles it purchases from other domestic firms. The customer again responded that it does not track import information on articles purchased from domestic suppliers and submitted a list of its suppliers for the relevant time period. UAR 823.

The customer was contacted again during this third remand investigation to confirm the information that it submitted during the initial and remand investigations of this petition. SUAR 188–239. The customer also submitted additional information regarding the size (purchase value) of its 2008 and 2009 domestic door and/or window suppliers along with more specific information about the products purchased from each supplier. SUAR 188–239.

Although the Department believes that its previous determination based on the findings of the customer survey was correct, the Department contacted each of the customer's suppliers to question whether they sold imported product to this customer in the period under investigation. SUAR 240–293.

In order to determine whether any imported product sold to the customer by its other domestic suppliers contributed importantly to a decline in operations at Weather Shield, the Department first had to determine the size of each supplier in relation to the customer's operations, and then examine any import impact on the operations of the subject firm.

The Department had to determine if the customer decreased its purchases from the subject firm and increased purchases from suppliers that imported the doors and/or windows they sold to the customer in the relevant time period. The customer provided information regarding the size, in purchase value, of its suppliers which was used to determine the significance of each supplier relative to the customer's operations and whether any of their imports could have impacted operations at Weather Shield. SUAR 187–239. The Department contacted all of the domestic suppliers of doors and windows of the customer to obtain information regarding the origin of the products sold to the customer in the years 2008 and 2009. SUAR 241–293. Each supplier was requested to specify how much, if any, of the doors and/or windows sold to the customer in the relevant time period was manufactured in a foreign country. SUAR 241–293.

A portion of the suppliers–approximately 24 percent of the customer's door and window supplier base in 2008 and 22 percent in 2009—reported that the articles that they sold to the customer were manufactured in a foreign country. SUAR 241–293, 477, 480. However, because the suppliers imported a negligible percentage of the articles they sold to the customer, the customer purchased approximately one percent of imported products from its other domestic suppliers in 2008 and approximately two percent in 2009. SUAR 241–293, 477, 480, 507–508.

This new survey information was used to determine total import impact. To identify the relevance of the information collected from the suppliers of the customer during this remand investigation, the Department revised the survey analysis to show results to include the new import information. SUAR 507–508. Specifically, the results now include the missing response to question #2 on the customer survey form—imported purchases made from domestic firms. SUAR 507–508.

The updated information that includes indirect imports (''direct imports'' refer to imports by the customers of Weather Shield and ''indirect imports'' refer to imports by the other domestic suppliers of Weather Shield's customers) shows that total imports of the customer's of the subject firm declined from 2008 to 2009 and that indirect imports increased by one percent during the relevant time period. SUAR 507–508. The negligible increase in imports by the suppliers could not have contributed importantly to a decline in employment and sales or production at the subject firm.

Summary of Third Remand Investigation

The third remand investigation revealed that the subject firm's sales and production increased October 2008 through September 2009, and that the information provided by the subject firm could be relied upon by the Department.

Based on a careful review of previously submitted information and new information obtained during this remand investigation, the Department determines that increased imports of articles like or directly competitive with those produced by the subject firm did not contribute importantly to subject

worker group separations. Therefore, the Department determined that the petitioning workers have not met the eligibility criteria of Section 222(a) of the Trade Act of 1974, as amended.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin.

Signed in Washington, DC, on this 13th day of December 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–31658 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of December 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[26 TAA petitions instituted between 11/26/12 and 11/30/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82172	Nanya Technology Corp. Delaware (State/One-Stop)	Houston, TX	11/26/12	11/26/12
82173	Bank of America—Dormant Reg D Unclaimined Property (Workers).	Kansas City, MO	11/27/12	11/26/12
82174	Eureka Times-Standard and Tri-City Weekly (Workers)	Eureka, CA	11/27/12	11/03/12
82175	Philips Healthcare (Workers)	Highland Heights, OH	11/27/12	11/16/12
82176	RockTenn (Union)	Martinsville, VA	11/27/12	11/16/12
82177	Tyco Electronics Corporation (Company)	Middletown, PA	11/27/12	11/26/12
82178	KEMET Electronics Corporation (Company)	Simpsonville, SC	11/27/12	11/26/12
82179	Assembly Services and Packaging (Company)	Hudson, WI	11/27/12	11/17/12
82180	Comcast—Morgan Hill (State/One-Stop)	Morgan Hill, CA	11/27/12	11/26/12
82181	IBC Hostess (Union)	Salem, OR	11/28/12	11/27/12
82182	Aramark (State/One-Stop)	Burbank, CA	11/28/12	11/27/12
82183	AGC Flatglass (Union)	Kingsport, TN	11/28/12	11/15/12
82184	KCA Alamosa Sewing (Workers)	Alamosa, CO	11/28/12	11/27/12
82185	New Process Gear, a Division of Magna Powertrain (Company).	East Syracuse, NY	11/28/12	11/27/12
82186	Faurecia Emissions Control Technologies (Company)	Dexter, MO	11/28/12	11/27/12
82187	Cequent Performance Products (Workers)	Goshen, IN	11/28/12	11/28/12
82188	PNC Bank, N.A. (Workers)	Franklin, PA	11/28/12	10/16/12
82189	Verizon Communications (Workers)	Tampa, FL	11/29/12	11/28/12
82190	McCann's—a Division of Manitowoc Foodservice (Company)	Los Angeles, CA	11/29/12	11/28/12
82191	Knoxville Glove Company (Union)	Knoxville, TN	11/29/12	11/28/12
82192	Nokia, Inc.—Global Sourcing (State/One-Stop)	Chicago, IL	11/29/12	11/15/12
82193	Green Innovations and Technology, Inc. (State/One-Stop)	South Holland, IL	11/29/12	11/15/12
82194	Husky Injection Molding Systems (Company)	Buffalo, NY	11/29/12	11/27/12
82195	Despatch Industries (State/One-Stop)	Lakeville, MN	11/30/12	11/29/12
82196	Alorica, Inc. (State/One-Stop)	Cutler Bay, FL	11/30/12	11/29/12
82197	Delta Air Lines (Workers)	Sea Tac, WA	11/30/12	11/28/12

[FR Doc. 2012–31663 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 14th day of December 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[30 TAA petitions instituted between 12/3/12 and 12/7/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82198	American Foils, Inc. (State/One-Stop)	New Brunswick, NJ	12/03/12	11/30/12
82199	Regal Beloit (State/One-Stop)	Springfield, MO	12/03/12	11/30/12
82200	Covidien (Company)	Seneca, SC	12/03/12	12/03/12
82201	SeaChange International (State/One-Stop)	Greenville, NH	12/03/12	12/03/12
82202	Verizon Wireless (Workers)	Southfield, MI	12/03/12	12/02/12
82203	FCI USA, Inc. (Company)	Mount Union, PA	12/04/12	12/03/12
82204	Allegheny Millwork PBT (Company)	Lawrence, PA	12/04/12	12/03/12
82205	Thermo Fisher Scientific (Company)	Madison, WI	12/05/12	12/04/12
82206	The Nielsen Company (Company)	Green Bay, WI	12/05/12	12/04/12
82207	Hostess Brands (6 NV Locations) (State/One-Stop)	NV	12/05/12	12/04/12
82208	Hostess Brands (Union)	Boise, ID	12/05/12	12/04/12
82209	Cognizant Technology Solutions (State/One-Stop)	Teaneck, NJ	12/05/12	12/04/12
82210	Wellpoint (State/One-Stop)	Bronx, NY	12/05/12	12/04/12
82211	AGY (Union)	Huntingdon, PA	12/05/12	12/04/12
82212	BJR Selected Trucking Inc. (State/One-Stop)	Washington, PA	12/05/12	12/04/12
82213	Compucom (State/One-Stop)	Tewksbury, MA	12/05/12	12/04/12
82214	Kulicke & Soffa Industries (previous name was under (Company).	Irvine, CA	12/05/12	12/03/12
82215	Sharp Electronics Corporation (Workers)	Camas, WA	12/05/12	12/03/12
82216	PCCW Teleservices (Workers)	Quincy, IL	12/05/12	12/04/12
82217	IronTiger Logistics, Inc. (State/One-Stop)	Garland, TX	12/06/12	12/05/12
82218	ODW Contract Services (State/One-Stop)	Garland, TX	12/06/12	12/05/12
82219	TeleTech (Workers)	Springfield, MO	12/06/12	12/05/12
82220	Netlist, Inc. (State/One-Stop)	Irvine, CA	12/06/12	12/05/12
82221	Plexus Corporation—Neenah Design Center/Appleton 1 & 2 (State/One-Stop).	Appleton, WI	12/06/12	12/05/12
82222	Hostess Brands (9 Maine Locations) (State/One-Stop)	, ME	12/06/12	12/05/12
82223	Sumitomo Electric Wiring Systems, Inc. (Company)	Bowling Green, KY	12/07/12	12/06/12
82224	Evraz Stratcor (State/One-Stop)	Hot Springs, AR	12/07/12	12/06/12
82225	Dura Automotive Systems LLC (Company)	Milan, TN	12/07/12	12/06/12
82226	Hostess Brands IBC (Union)	La Grande, OR	12/07/12	12/04/12
82227	Berk—Tek (Nexans) (Workers)	New Holland, PA	12/07/12	11/23/12

[FR Doc. 2012–31660 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the

determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 19th day of December 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[30 TAA petitions instituted between 12/10/12 and 12/14/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82228	Hostess Brands Inc. (State/One-Stop)	East Windsor, CT	12/10/12	12/07/12
82229	Designer Blinds (State/One-Stop)	Omaha, NE	12/10/12	12/07/12
82230	YP Holdings LLC (Workers)	Dallas, TX	12/10/12	12/07/12
82231	PepsiCo (Workers)	Bradenton, FL	12/10/12	12/07/12
82232	EEP Quality Group, Inc. (State/One-Stop)	East Syracuse, NY	12/11/12	12/10/12
82233	Hostess Brands/Interstate Brands Corp. (Workers)	Cheswick, PA	12/11/12	12/11/12
82234	Hostess Cake IBC (State/One-Stop)	Los Angeles, CA	12/11/12	12/10/12
82235	SP Fiber Technologies LLC (Union)	Newberg, OR	12/11/12	12/07/12
82236	Champlain Valley Physicians Hospital (State/One-Stop)	Plattsburgh, NY	12/11/12	12/11/12
82237	State Street Bank and Trust Company (Workers)	North Quincy, MA	12/11/12	11/16/12
82238	Dolby Laboratories, Inc. (State/One-Stop)	Brisbane, CA	12/11/12	12/10/12
82239	Universal Music Group (State/One-Stop)	Santa Monica, CA	12/11/12	12/10/12
82240	Allesee Orthodontic Appliances (Company)	Calexico, CA	12/12/12	12/11/12
82241	Alcoa Automotive, Indiana Assembly & Fabricating Center, Inc. (Company).	Auburn, IN	12/12/12	12/11/12
82242	Burroughs Inc. (Union)	Plymouth, MI	12/12/12	12/11/12
82243	Leach International, Esterline Corporation (Company)	Buena Park, CA	12/12/12	12/11/12
82244	Philips Lighting (Company)	Wilmington, MA	12/12/12	12/10/12
82245	Filmtec (State/One-Stop)	Edina, MN	12/12/12	12/11/12
82246	Itron (State/One-Stop)	Waseca, MN	12/12/12	12/11/12
82247	Kincaid Furniture (Workers)	Hudson, NC	12/12/12	12/07/12
82248	Hostess Brands (Workers)	Lafayette, IN	12/12/12	12/11/12
82249	United Health Group (State/One-Stop)	Coon Rapids, MN	12/12/12	12/11/12
82250	YP Holdings LLC (Workers)	Anaheim, CA	12/13/12	12/12/12
82251	Cooper Hosiery Mill, Inc. (Company)	Fort Payne, AL	12/13/12	12/12/12
82252	Heritage Footwear (Company)	Fort Payne, AL	12/14/12	12/12/12
82253	Cardinal Health (Workers)	Albuquerque, NM	12/14/12	12/13/12
82254	Invensys Systems Inc. (State/One-Stop)	Foxboro, MA	12/14/12	12/13/12
82255	Hostess Brands (Company)	Northwood, OH	12/14/12	12/13/12
82256	Verizon Business Network Services, Inc. (State/One-Stop)	San Antonio, TX	12/14/12	12/13/12
82257	Harley Davidson (State/One-Stop)	Milwaukee, WI	12/14/12	12/14/12

[FR Doc. 2012–31656 Filed 1–3–13; 8:45 am]

BILLING CODE 4510–FN–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397; NRC–2012–0322]

Energy Northwest; Columbia Generating Station; Exemption

1.0 Background

Energy Northwest (the licensee) is the holder of Renewed Facility Operating License No. NPF–21, which authorizes operation of the Columbia Generating Station. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Benton County in the state of Washington.

2.0 Request/Action

The regulations in paragraph 50.36a(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), require a radioactive effluent release report for each commercial nuclear power plant to be submitted annually such that the time between submission of any two reports is not longer than 12 months.

The licensee's Technical Specification (TS) 5.6.2, ''Radioactive Effluent Release Report,'' requires the Annual Radioactive Effluent Release Report (ARERR) to be submitted in accordance with 10 CFR 50.36a as specified in the licensee's Offsite Dose Calculation Manual (ODCM). The licensee's ODCM specifies the ARERR to be submitted within 60 days after January 1 of each calendar year. The licensee indicates this constitutes an undue administrative burden due to the compressed schedule for data collection, report preparation, and internal review following closure of the reporting period. As a result, the licensee wants to change the ODCM so that the report can be submitted prior to May 1 of each year. In order to implement this change to the ODCM, the licensee has requested a one-time exemption from the required 12-month reporting interval for the next required submittal of the ARERR for the Columbia Generating Station. This would result in a one-time allowance of an additional 2 months (i.e., a 14-month

interval) for the next required submittal of the ARERR. An exemption is needed because 10 CFR 50.36a(a)(2) specifies the interval between submittal of successive ARERRs must not exceed 12 months.

In summary, the end result of this exemption would be that the time interval between the 2011 and the 2012 ARERRs (generated in March 2012 and May 2013) would be 14 months. This is a one-time exemption, and subsequent ARERRs, generated in 2014 and beyond, would be subject to the 12-month interval specified in 10 CFR 50.36a(a)(2).

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. These circumstances include the special circumstances that would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulations.

Authorized by Law

This exemption would allow the time interval between the 2011 and the 2012 ARERRs (generated in March 2012 and May 2013 respectively) to be increased to 14 months. This is a one-time exemption, and subsequent ARERRs, generated in 2014 and beyond, would be subject to the 12-month interval specified in 10 CFR 50.36a(a)(2). As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR 50.36a(a)(2). The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.36a(a)(2) is to ensure that once each year, prior to a specified date, the licensee submits an ARERR to the NRC that specifies (1) the principal radionuclides released in liquid and gaseous effluents, (2) the amounts of each radionuclide released, and (3) other such information that may be required by the NRC to estimate doses to members of the public in the unrestricted areas during the previous calendar year. The proposed exemption only changes the date the ARERR would be submitted to the NRC, but does not change any of the information presented in the ARERR.

Based on the above, no new accident precursors are created by extending the submittal date for the next ARERR (from prior to March 1) to prior to May 1, thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would extend the time interval between the 2011 and the 2012 ARERRs (generated in March 2012 and May 2013, respectively) to 14 months. This is a one-time exemption, and subsequent ARERRs, generated in 2014 and beyond, would be subject to the 12-month interval specified in 10 CFR 50.36a(a)(2). This change to the date the ARERR is submitted to the NRC has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(v), are present whenever application of the regulation in the particular circumstances would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. The requested exemption asks for a one-time relaxation of the 12-month ARERR reporting requirement. Therefore, the relief is temporary. The licensee has submitted an annual report at the 12-month reporting interval every year since 1985. The NRC staff agrees submitting the report within 60 days of January 1 may present an undue administrative burden due to the necessary data collection, report preparation, and internal review. The licensee agrees to submit the report, in its entirety, within 2 months of the required 12-month reporting interval. In addition, ARERRs generated in 2014 and beyond, would be subject to the 12-month interval specified in 10 CFR 50.36a(a)(2) with ARERRs being submitted prior to May 1 of each year. As a result, the NRC staff concludes the licensee has made a good faith effort to comply with the regulation. Therefore, since the underlying purpose of 10 CFR 50.36a(a)(2) is achieved, the special circumstances required by 10 CFR 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.36a(a)(2) exist.

4.0 Environmental Consideration

This exemption authorizes a one-time exemption from the requirements of 10 CFR 50.36a(a)(2) for the CGS. The NRC staff has determined that this exemption involves no significant hazards considerations:

(1) The proposed exemption is limited to a one-time 2-month extension for submittal of the 2012 ARERR. The proposed exemption does not make any changes to the facility or operating procedures and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not increase the probability or consequences of an accident previously evaluated.

(2) The proposed exemption is limited to a one-time 2-month extension for submittal of the 2012 ARERR. The proposed exemption does not make any changes to the facility or operating procedures and would not create any new accident initiators. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption is limited to a one-time 2-month extension for submittal of the 2012 ARERR. The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in the margin of safety.

Based on the above, the NRC staff concludes that the proposed exemption does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has also determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluent that may be released offsite; there is no significant increase in individual or cumulative occupational radiation exposure; there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirement from which the licensee will be exempted involves reporting requirements. Accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment

needs to be prepared in connection with the issuance of this exemption.

5.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Energy Northwest a one-time exemption from 10 CFR Part 50, Section 50.36a(a)(2) to submit the 2012 ARERR prior to May 1, 2013, for the Columbia Generating Station.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2012.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–31707 Filed 1–3–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293; NRC–2012–0311]

Entergy Nuclear Operations, Inc.; Pilgrim Nuclear Power Station; Exemption

1.0 Background

Entergy Nuclear Operations, Inc. (the licensee) is the holder of Renewed Facility Operating License No. DPR–35, which authorizes operation of the Pilgrim Nuclear Power Station (PNPS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. The facility consists of a boiling-water reactor located in Plymouth, Massachusetts.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Section IV.F.2.c, requires that ''Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan.'' By letter dated November 29, 2012, the licensee requested a one-time exemption from this requirement that would allow the licensee to delay conduct of the offsite portions of a biennial emergency preparedness (EP) exercise from November 7, 2012, to March 2013. The licensee's request states that on October 29, 2012, Hurricane Sandy passed through the East Coast of the United States, impacting Washington DC, the States of Maryland, New Jersey, New York, Connecticut, and Rhode Island, and the Commonwealth of Massachusetts, causing widespread devastation and flooding throughout the surrounding areas. This hurricane event resulted in a multi-agency emergency response, which included the Federal Emergency Management Agency (FEMA), the Massachusetts Emergency Management Agency (MEMA), and the local town officials in the Pilgrim Emergency Planning Zone (EPZ). The licensee further states that immediate and long-term resource commitments were needed to recover from the hurricane event, and as a result, FEMA, MEMA, and local town resources did not participate in the previously planned and scheduled Pilgrim Biennial Exercise that was conducted on November 7, 2012. Consequently, the requirement of 10 CFR part 50, Appendix E, Section IV.F.2.c, for a full participation of offsite authorities during the biennial exercise was not satisfied.

Based on discussions with FEMA and MEMA representatives, the licensee does not consider it feasible to schedule and perform a full participation biennial exercise prior to the end of calendar year (CY) 2012. In an email from FEMA to the licensee dated November 26, 2012, FEMA Region I acknowledged agreement with the Commonwealth of Massachusetts that offsite portions of the Pilgrim biennial exercise can be scheduled for and conducted on March 21, 2013. The email was submitted as an attachment to the licensee's application dated November 29, 2012.

The onsite portion of the exercise was conducted as scheduled on November 7, 2012, and was inspected by the NRC under Inspection Procedure No. 71114.01. The NRC's inspection of the licensee's conduct and self-evaluation of the exercise identified no findings. Out-of-sequence demonstrations for various schools, daycare centers, special facilities, and camps were also conducted and evaluated during FEMA Region I staff visits between the months of July 2012 and September 2012, in accordance with the November 2012 biennial exercise objectives and extent of play. In addition, the following out-of-sequence demonstrations were evaluated by FEMA Region I since the previous PNPS Biennial Exercise conducted on November 16, 2010:

Radiological Emergency Worker Monitoring and Decontamination Center	August 23, 2011.
	August 7, 2012.
Quincy Medical Center Medical Service Drill	October 5, 2011.
KIDS Site Brockton High School	January 26, 2012.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, Appendix E, when: (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Authorized by Law

This exemption would allow the licensee and offsite response organizations to accommodate Hurricane Sandy's impact upon their resources by postponing the offsite portion of the exercise from the previously scheduled date of November 7, 2012, until March 2013.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50, Appendix E. The NRC has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR part 50, Appendix E, Section IV.F.2.c, is to ensure that licensees test and maintain interfaces among themselves and affected State and local authorities during the intervals between biennial exercises by conducting emergency preparedness activities and interactions. In order to accommodate the scheduling of full participation exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the remaining offsite portions of the PNPS

full participation exercise by March 2013, rather than in CY 2012, places the exercise outside of the required biennium. Since the last biennial EP exercise on November 16, 2010, the licensee has conducted two full-scale combined functional drills/dryruns involving onsite and offsite functions in preparation for the scheduled November 7, 2012 biennial exercise, as well as, numerous documented training evolutions supported through the Commonwealth of Massachusetts, local EPZ and Reception Community Offices of Emergency Management and support organizations. In addition, the Commonwealth of Massachusetts participated in two FEMA-evaluated exercises in conjunction with the Vermont Yankee Nuclear Power Plant and Seabrook Nuclear Power Plant, on February 9, 2011 and January 24, 2012, respectively, along with multiple practice drills/tabletop related to each evaluated exercise. While these drills and training sessions did not exercise all of the proposed rescheduled offsite functions, they support the licensee's assertion that it has had a continuing level of engagement with the State and local authorities to maintain licensee/governmental interfaces. The NRC considers the intent of this requirement is met by having conducted these drills and training sessions.

The NRC has determined that no new accident precursors are created by allowing the licensee to postpone the selected offsite portions of the exercise from CY 2012 until March 2013. Further, the probability and consequences of postulated accidents are not increased. Therefore, the exemption does not create undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would allow rescheduling of the specific offsite portions of the biennial EP exercise from the previously scheduled date of November 7, 2012, until March 2013. This change to the EP exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

In order to grant exemptions in accordance with 10 CFR 50.12, special circumstances must be present. Special circumstances as described in 10 CFR 50.12 that apply to this exemption request are stated in 10 CFR 50.12(a)(2)(ii) and (v). Special circumstances, per 10 CFR 50.12(a)(2)(ii), are present when: ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' Section IV.F.2.c of 10 CFR part 50, Appendix E requires licensees to exercise offsite plans biennially with full or partial participation by each offsite authority having a role under the plan. The underlying purposes of 10 CFR part 50, Appendix E, Section IV.F.2.c, requiring licensees to exercise offsite plans with offsite authority participation, is to test and maintain interfaces among affected State and local authorities and the licensee. No deficiencies were identified by FEMA during the previous PNPS biennial exercise, conducted on November 16, 2010, as documented in the PNPS After Action Report/Improvement Plan, published by FEMA on January 26, 2011 (ADAMS Accession No. ML11223A279).

Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. Since the previous biennial exercise on November 16, 2010, the licensee has conducted two full-scale combined functional drills/dryruns involving onsite and offsite functions in preparation for the scheduled November 7, 2012 biennial exercise, as well as, numerous documented training evolutions that involved interface with State and local authorities in 2011 and 2012. The NRC considers that these measures are adequate to test and maintain interfaces with affected State and local authorities during this period, satisfying the underlying purpose of the rule. As such, the NRC considers the licensee to have made good faith efforts to comply with the regulation. Also, the requested exemption to conduct the offsite portion of the PNPS Biennial Exercise in March 2013 instead of CY 2012 would grant only temporary relief from the applicable regulation. Therefore, since the underlying purpose of 10 CFR part 50, Appendix E, Section IV.F.2.c, is achieved, the licensee has made a good faith effort to comply with the regulation, and the exemption would grant only temporary relief from the applicable regulation. The special circumstances required by 10 CFR 50.12(a)(2)(ii and v) exist for the granting of an exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present consistent with 10 CFR 50.12. Therefore, the Commission hereby grants Entergy Nuclear Operations, Inc. an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.c, to conduct the offsite portion of the PNPS Biennial Exercise required for 2012, permitting that part of the exercise to be conducted in coordination with NRC Region I, FEMA, and PNPS schedules by the end of March 2013.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (77 FR 76541, December 28, 2012).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 28th day of December 2012.

For the Nuclear Regulatory Commission.

Jessie F. Quichocho,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–31709 Filed 1–3–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68547; File No. SR–NYSEArca–2012–120]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of the United States Asian Commodities Basket Fund Under NYSE Arca Equities Rule 8.200

December 28, 2012.

I. Introduction

On October 25, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 list and trade shares (''Shares'') of the United States Asian Commodities Basket Fund (''Fund'') under NYSE Arca Equities Rule 8.200. The proposed rule change was published for comment in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Register on November 13, 2012.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to NYSE Arca Equities Rule 8.200, Commentary .02.[4] The Shares represent beneficial ownership interests in the Fund.[5] The Fund is a commodity pool that is a series of the United States Commodity Funds Trust I (''Trust''), a Delaware statutory trust. The Fund is managed and controlled by United States Commodity Funds LLC (''Sponsor''), a Delaware limited liability company that is registered as a commodity pool operator with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association. Brown Brothers Harriman & Co. Inc. is the administrator for the Trust (''Administrator'').

The net assets of the Fund will consist of (a) investments in futures contracts for Asian commodities (collectively, ''Futures Contracts'') that are traded on the Chicago Mercantile Exchange (''CME''), Chicago Board of Trade (''CBOT''), the New York Mercantile Exchange (''NYMEX''), Commodity Exchange, Inc. (''COMEX''), ICE Futures US (''ICE US''), ICE Futures Canada (''ICE Canada''), ICE Futures Europe (''ICE Europe''), London Metal Exchange (''LME''), Tokyo Commodity Exchange (''TOCOM''), Dubai Mercantile Exchange (''DME''), and Bursa Malaysia (''Malaysia'') (each a ''Futures Exchange'' and collectively, ''Futures Exchanges''), and (b) if applicable, other Asian commodities-related investments such as exchange-listed, cash-settled options on Futures Contracts, forward contracts for Asian commodities, cleared swap contracts, and over-the-counter transactions that are based on the price of Asian commodities, Futures Contracts, and indices based on the foregoing (collectively, ''Other Asian Commodities-Related Investments'' and, together with Futures Contracts, ''Asian Commodities Interests''). The Fund will also invest in short-term obligations of the United States of two years or less (''Treasuries''), cash, and cash equivalents for margining purposes and as collateral.

The Fund will invest in Asian Commodities Interests, to the fullest extent possible, without being leveraged or unable to satisfy its current or potential margin and/or collateral obligations with respect to its investments in Futures Contracts and Other Asian Commodities-Related Investments.[6] The primary focus of the Sponsor will be the investment in Futures Contracts and the management of the Fund's investments in Treasuries, cash, and cash equivalents for margining purposes and as collateral.

The investment objective of the Fund (before fees and expenses) will be to have the daily changes in percentage terms of its net asset value (''NAV'') reflect the daily changes in percentage terms of the price of a basket (''Futures Basket'') of Futures Contracts selected by the Sponsor (''Benchmark Futures Contracts''), each of which tracks one of the Asian Benchmark Commodities. The ''Asian Benchmark Commodities'' will be commodities selected by the Sponsor[7] based on either their systemic importance to Asian economies, including the three major Asian economies of China, Japan, and India, or the fact that there are futures contracts relating to the commodity or commodities that trade on an Asian domiciled futures exchange. The Sponsor will select the Asian Benchmark Commodities based on the following four criteria:

- First, the physical commodity must be one in which the economies of China, Japan, and India annually consume 10% or more of global consumption based on publically available industry and government statistics.
- Second, the physical commodity must be one in which, based on publically available industry and government statistics, China, Japan, and India annually produce less of the commodity than they typically consume, indicating that they are likely to be net importers of the commodity and not net exporters.
- Third, the Futures Contracts on the physical commodity must be traded on a regulated Futures Exchange in the United States, Canada, the United Kingdom, Japan, Dubai, Malaysia, or other domicile which allows a U.S. domiciled passive investment fund to buy and sell such contracts.
- Fourth and finally, the Futures Contracts traded on such commodities must have average open interest measured in U.S. dollars in excess of $150 million at the time of the commodity's selection. In the event the same or substantially similar physical contract is traded on more than one Futures Exchange, the minimum liquidity test will be applied to the exchange with the largest open interest U.S. dollar terms in that particular commodity.

The Asian Benchmark Commodities will be selected by the Sponsor in accordance with the above specific quantitative data. In the first quarter of each calendar year, the Sponsor will reevaluate the selection of Asian Benchmark Commodities based on the prior year's data. As a result of changes in Asian commodity production, commodity consumption, net imports or exports of commodities, and changes in commodity futures contract liquidity, and in strict accordance with the criteria and factors listed above, the Sponsor may elect to add or delete a commodity from the list of Asian Benchmark Commodities, and thus the Futures Basket.[8] Under normal circumstances, the Sponsor anticipates that any changes in either the list of Asian Benchmark Commodities, the list of Benchmark Futures Contracts in the Futures Basket, or their weightings, would be made as part of the annual review process and disclosed to investors with no less than 30 days advanced notice of the change.

From time to time throughout the year, it is possible that the Sponsor may determine that a Futures Contract that is currently a Benchmark Futures Contract is no longer suitable due to changes in the liquidity of the Futures Contract or due to changes in the rules regarding that particular Futures Contract on its

[3] *See* Securities Exchange Act Release No. 68173 (November 6, 2012), 77 FR 67712 (''Notice'').

[4] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[5] *See* Amendment No. 2 to the registration statement on Form S–1 for the United States Commodity Funds Trust I, dated June 18, 2012 (File No. 333–177188) relating to the Fund (''Registration Statement'').

[6] The Sponsor represents that the Fund will invest in Asian Commodities Interests in a manner consistent with the Fund's investment objective and not to achieve additional leverage.

[7] The Sponsor is not a broker-dealer or a registered investment adviser. The Sponsor represents that it will implement and maintain procedures designed to prevent the use and dissemination of material, non-public information regarding the Futures Basket.

[8] In making any such change, the Sponsor will file a prospectus supplement informing investors of the proposed changes no less than 30 days prior to the first month in which the commodity or commodities added will become part of the Asian Benchmark Commodities, or 30 days prior to the first month in which the commodity or commodities deleted will no longer be part of the Asian Benchmark Commodities. Any changes to the eligible Asian Benchmark Commodities will also be published on the Web site for the Fund.

regulated Futures Exchange.[9] In such cases, the Sponsor would first attempt to select another Futures Contract based on the same commodity that trades on either the current regulated Futures Exchange, or trades on another regulated Futures Exchange, and disclose on the Fund's Web site and in a prospectus supplement that the new Futures Contract will become a Benchmark Futures Contract for the relevant Asian Benchmark Commodity and the prior Benchmark Futures Contract for such Asian Benchmark Commodity would be deleted. In the event that the Sponsor determined that no other existing Futures Contract is a suitable replacement, then the Sponsor would file a prospectus supplement and post on the Web site indicating that the relevant Benchmark Futures Contract would no longer be included as part of the Futures Basket. In cases where a suitable Benchmark Futures Contract no longer exists, the Sponsor will also remove the underlying commodity from the list of Asian Benchmark Commodities.[10] Although the Sponsor would normally seek to provide at least 30 days' notice of any such change, specific circumstances could mean that the Sponsor would be unable to provide that amount of advanced notice.

The Benchmark Futures Contracts may trade on any of the Futures Exchanges. It is not the intent of the Fund to be operated in a fashion such that its NAV will equal, in dollar terms, the spot price of any particular commodity or any particular Benchmark Futures Contract. It is not the intent of the Fund to be operated in a fashion such that its NAV will reflect the percentage change of the price of the Futures Basket as measured over a time period greater than one day. The Sponsor does not believe that is an achievable goal due to the potential impact of backwardation and contango on returns of any portfolio of futures contracts.

The Fund will seek to achieve its investment objective by investing in Futures Contracts and, if applicable, Other Asian Commodities-Related Investments such that the daily changes in the Fund's NAV will closely track changes in the daily price of the Futures Basket. The Sponsor believes changes in the price of the Benchmark Futures Contracts have historically exhibited a close correlation with the changes in the price of the corresponding Asian Benchmark Commodities. On any valuation day (a valuation day is any NYSE Arca trading day as of which the Fund calculates its NAV), each Benchmark Futures Contract will be the near month contract for the corresponding Asian Benchmark Commodity traded on the Futures Exchange where such Benchmark Futures Contract is listed, unless the near month contract will expire within four business days prior to the end of the month. Only the Benchmark Futures Contracts that will be reaching expiration in the upcoming month will be sold and the next Futures Contract for that commodity that expires later than the upcoming month, the next month contract, will be used to replace the contract being sold. Benchmark Futures Contracts which are not reaching expiration in the upcoming month will not be ''rolled'' forward.

The Fund will invest in Benchmark Futures Contracts to the fullest extent possible, turning next to investments in other Futures Contracts, and finally to Other Asian Commodities-Related Investments only if required to by applicable regulatory requirements or under adverse market conditions.[11] The types of regulatory requirements and market conditions that would cause the Fund to invest in this manner are of a limited nature. An example of a regulatory requirement that would cause the Fund to invest in Futures Contracts or Other Asian Commodities-Related Investments other than Benchmark Futures Contracts would be where the Fund received payment from an authorized purchaser for the issuance of a creation basket, but could not invest the payment in Benchmark Futures Contracts because doing so would cause the Fund to exceed the position limits applicable to such Benchmark Futures Contracts. Imposition of other regulatory requirements, such as accountability levels, daily price fluctuation limits, or the imposition of capital controls on foreign investments, may cause the Fund to invest in Futures Contracts or Other Asian Commodities-Related Investments other than Benchmark Futures Contracts.[12] Adverse market conditions that the Sponsor currently anticipates could cause the Fund to invest in Futures Contracts and Other Asian Commodities-Related Investments other than the Benchmark Futures Contracts would be those allowing the Fund to obtain greater liquidity or to execute transactions with more favorable pricing.

More specifically, if applicable regulatory requirements or adverse market conditions make investing in Benchmark Futures Contracts impracticable, the Fund would then invest to the fullest extent possible in other Futures Contracts that, while relating to the same commodity and trading on the same Futures Exchange as a Benchmark Futures Contract, have a different expiration date. If and when investing in such other Futures Contracts becomes impracticable because of regulatory requirements or adverse market conditions, the Fund would then invest to the fullest extent possible in Futures Contracts that, while relating to the same commodity as the corresponding Benchmark Futures Contract, are traded on a different futures exchange. Only when the Fund has invested in Benchmark Futures Contracts and other Futures Contracts to the fullest extent possible in the manner described above will it then invest in Other Asian Commodities-Related Investments.[13]

[9] An example would be a case where a Futures Contract's liquidity (average open interest) has decreased to under $150 million.

[10] In a case where an underlying commodity is removed from the list of Asian Benchmark Commodities as described, if a Futures Contract in such commodity becomes available at some later date, the underlying commodity would be eligible for selection as an Asian Benchmark Commodity in the annual review process.

[11] ''Adverse market conditions'' as used herein includes, but is not limited to, those conditions whereby the Sponsor believes the price of the Benchmark Futures Contract appears adversely impacted or economically dislocated compared to substantially similar Futures Contracts, *i.e.,* those futures contracts of the same commodity as the Benchmark Futures Contract, but traded on a different exchange.

[12] U.S. designated contract markets such as the CME, CBOT, COMEX, NYMEX, and ICE US have established accountability levels and position limits on the maximum net long or net short futures contracts in commodity interests that any person or group of persons under common trading control (other than as a hedge, which an investment by the Fund is not) may hold, own, or control. In addition to accountability levels and position limits, the regulated Futures Exchanges may also set daily price fluctuation limits on futures contracts. The daily price fluctuation limit establishes the maximum amount that the price of a futures contract may vary either up or down from the previous day's settlement price. Once the daily price fluctuation limit has been reached in a particular futures contract, no trades may be made at a price beyond that limit.

Imposition of, or changes in, accountability levels, position limits or fluctuation limits on futures contracts could constitute a regulatory requirement that would cause the Fund to invest in Futures Contracts or Other Asian Commodities-Related Investments other than Benchmark Futures Contracts. All of these limits may potentially cause a tracking error between the price of the Shares and the price of the Futures Basket. This may in turn prevent investors from being able to effectively use the Fund as a way to hedge against Asian commodities-related losses or as a way to indirectly invest in Asian commodities.

[13] The Fund anticipates that, to the extent it invests in Futures Contracts other than the Benchmark Futures Contracts and Other Asian Commodities-Related Investments that are not economically equivalent to the Benchmark Futures Contracts, it will enter into various non-exchange-

Continued

The Sponsor will endeavor to place the Fund's trades in Asian Commodities Interests and otherwise manage the Fund's investments so that ''A'' will be within plus/minus 10 percent of ''B,'' where:

- A is the average daily percentage change in the Fund's NAV for any period of 30 successive valuation days (*i.e.,* any NYSE Arca trading day as of which the Fund calculates its NAV); and
- B is the average daily percentage change in the price of the Futures Basket over the same period.

The current Asian Benchmark Commodities, the Sponsor's estimate of the percentage of global production and consumption for each commodity that is attributable to China, Japan, and India combined, and the current assigned base weight of each commodity for use in the Futures Basket are shown in the table below.

ASIAN BENCHMARK COMMODITIES

(as of December 31, 2011)

Commodity	China, Japan, and India's share of global production (percent)	China, Japan, and India's share of global consumption (percent)	Current base weight (percent)
Crude Oil	5.9	19.0	22
Gasoil	5.9	19.0	2
Corn	23.3	24.6	10
Soybeans	9.1	32.1	10
Wheat	32.3	32.6	10
Copper	4.8	60.9	10
Zinc	34.5	48.9	5
Nickel	4.3	41.6	5
Sugar	24.4	26.2	5
Platinum	0	41.9	5
Gold	13.1	63.8	5
Silver	15.1	66.8	5
Canola Oil	15	44.7	2
Palm Oil	0	40.1	2
Rubber	14.6	47.3	2
Total	.....	.....	100

A list of the current Benchmark Futures Contracts and their weighting in the Futures Basket is shown in the table below.

BENCHMARK FUTURES CONTRACTS

Commodity	Primary futures exchange	Trading hours (eastern time)	Contract ticker or code	Contract size	Pricing convention	Futures basket weighting (percent)
Crude Oil-Light/Sweet-Brent	ICE Europe	8 p.m.–6 p.m.*	CO	1,000	USD/bbl	20.0
Crude Oil-Medium-DME/Oman	DME/CME**	6 p.m.–5:15 p.m.*	OQD	1,000	USD/bbl	2.0
Gasoil	ICE Europe	8 p.m.–6 p.m.*	QS	100	USD/Tonne	2.0
Corn	CBOT	8:30 a.m.–12:15 p.m	ZC	5,000	c/bu	10.0
Soybeans	CBOT	8:30 a.m.–12:15 p.m	ZS	5,000	c/bu	10.0
Wheat	CBOT	8:30 a.m.–12:15 p.m	ZW	5,000	c/bu	10.0
Copper	COMEX	8:10 a.m.–1 p.m	HG	25,000	USD/lb	10.0
Zinc	LME	8 p.m.–2 p.m	LX	25	USD/Tonne	5.0
Nickel	LME	8 p.m.–2 p.m	LN	6	USD/Tonne	5.0
Sugar	ICE US	3:30 a.m.–2 p.m	SB	112,000	c/lb	5.0
Platinum	TOCOM***	7 p.m.–1:30 a.m.*	JA	500	JPY/g	5.0
Gold	COMEX	8:20 a.m.–1:30 p.m	GC	100	USD/T.Oz	5.0
Silver	COMEX	8:25 a.m.–1:25 p.m	SI	5,000	USD/T.Oz	5.0
Canola Oil	ICE Canada	8 p.m.–2:15 p.m	RS	20	CAD/Tonne	2.0
Palm Oil	Bursa Malaysia/CME**	7 p.m.–3:50 a.m.*	KO	25	MYR/Tonne	2.0
Rubber	TOCOM	7 p.m.–1:30 a.m.*	JN	5,000	JPY/kg	2.0
Total	.....	.....	.....	.....	.....	100

* Trading ends on next calendar day.
** Non-U.S. Futures Contracts that are also cross-listed on the CME and trade during U.S. market hours.
*** A substantially similar, but not identical, physically settled Futures Contract trades in the U.S. on the CME.

traded derivative contracts to hedge the short-term price movements of such Futures Contracts and Other Asian Commodities-Related Investments against the current Benchmark Futures Contracts.

The Sponsor believes that market arbitrage opportunities will cause daily changes in the Fund's Share price on the Exchange to closely track daily changes in the Fund's NAV per Share. The Sponsor believes that the net effect of this expected relationship and the expected relationship described above between the Fund's NAV and the Futures Basket will be that the daily changes in the price of the Fund's Shares on the Exchange will closely track in percentage terms, changes in the Futures Basket less the Fund's expenses.

The Sponsor will employ a ''neutral'' investment strategy intended to track the changes in the Futures Basket regardless of whether the price goes up or goes down. The Fund's ''neutral'' investment strategy is designed to permit investors generally to purchase and sell the Fund's Shares for the purpose of trading indirectly in the commodities market in a cost-effective manner, and/or to permit participants in the commodities or other industries to hedge the risk of losses in their Asian Commodities Interests. Accordingly, depending on the investment objective of an individual investor, the risks generally associated with investing in the Asian commodities market and/or the risks involved in hedging may exist. In addition, an investment in the Fund involves the risk that the changes in the price of the Fund's Shares will not accurately track changes in the Futures Basket and that changes in the Benchmark Futures Contracts will not closely correlate with changes in the prices of the corresponding Asian Benchmark Commodities. Furthermore, the Fund will also hold Treasuries, cash, and/or cash equivalents to meet its current or potential margin or collateral requirements with respect to its investments in Asian Commodities Interests and invest cash not required to be used as margin or collateral. The Fund does not expect there to be any meaningful correlation between the performance of the Fund's investments in Treasuries, cash, and/or cash equivalents and the changes in the prices of commodities or Asian Commodities Interests. While the level of interest earned on or the market price of these investments may in some respect correlate to changes in the prices of commodities, this correlation is not anticipated as part of the Fund's efforts to meet its objective.

Each month, the Benchmark Futures Contracts will change, starting four business days prior to the end of the month. Only the near month Benchmark Futures Contracts that will be reaching expiration in the upcoming month will be sold. The next Benchmark Futures Contract for the relevant Asian Benchmark Commodity that expires later than the upcoming month, the ''next month contract,'' will be used to replace the Benchmark Futures Contract being sold. Near month Benchmark Futures Contracts which are not reaching expiration in the upcoming month will not be ''rolled'' forward. During the first three days of such period, the applicable value of each Benchmark Futures Contract being rolled forward will be based on a combination of the corresponding near month contract and the next month contract as follows:

(1) Day 1 will consist of 75% of the then near month contract's total return for the day, plus 25% of the total return for the day of the next month contract,

(2) Day 2 will consist of 50% of the then near month contract's total return for the day, plus 50% of the total return for the day of the next month contract, and

(3) Day 3 will consist of 25% of the then near month contract's total return for the day, plus 75% of the total return for the day of the next month contract.

On day 4, such Benchmark Futures Contract will be the next month contract to expire at that time. That contract will remain the Benchmark Futures Contract until the following month's change in the Benchmark Futures Contract, the period for which begins four business days prior to the end of the month.

The Sponsor will attempt to manage the credit risk of the Fund by following certain trading limitations and policies. In particular, the Fund intends to post margin and collateral and/or hold liquid assets that will be equal to approximately the face amount of the Asian Commodity Interests it holds. The Sponsor will implement procedures that will include, but will not be limited to, executing and clearing trades and entering into over-the-counter transactions only with parties it deems creditworthy and/or requiring the posting of collateral by such parties for the benefit of the Fund to limit its credit exposure. To reduce the credit risk that arises in connection with over-the-counter derivative contracts, the Fund will generally enter into an agreement with each counterparty based on the Master Agreement published by the International Swaps and Derivatives Association, Inc. (''ISDA'') that provides for the netting of its overall exposure to its counterparty.

The creditworthiness of each potential counterparty will be assessed by the Sponsor. The Sponsor will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an over-the-counter contract pursuant to guidelines approved by the Sponsor. Furthermore, the Sponsor on behalf of the Fund will only enter into over-the-counter contracts with counterparties who are, or are affiliates of, (a) Banks regulated by a United States federal bank regulator, (b) broker-dealers regulated by the Commission, (c) insurance companies domiciled in the United States, and (d) producers, users, or traders of commodities, whether or not regulated by the CFTC. Existing counterparties will be reviewed periodically by the Sponsor. The Fund also may require that the counterparty be highly rated and/or provide collateral or other credit support.

A more detailed description of the Fund and the Shares, as well as of the investment strategies and risks, creation and redemption procedures, and fees, among other things, is included in the Notice and the Registration Statement, as applicable.[14]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [15] and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange's rules 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 notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.200 and Commentary .02 thereto to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[18] which sets

[14] *See supra* notes 3 and 5.

[15] 15 U.S.C. 78f.

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA''). The intraday, closing prices, and settlement prices of the Futures Contracts held by the Fund are readily available from the Web sites of the relevant Futures Exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Complete real-time data for the Futures Contracts is available by subscription from Reuters and Bloomberg. The relevant Futures Exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for the Futures Contracts are also available on such Web sites, as well as other financial informational sources. Information regarding exchange-traded cash-settled options and cleared swap contracts will be available from the applicable exchanges and major market data vendors. Further, the Fund will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the composite value of the total portfolio; the name, percentage weighting, and value of each Benchmark Futures Contract; the specific types, percentage weightings, and values of Other Asian Commodities-Related Investments and characteristics of such Other Asian Commodities-Related Investments; the name and value of each Treasury security and cash equivalent; and the amount of cash held in the Fund's portfolio. This Web site disclosure will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants so that all market participants are provided portfolio composition information at the same time. In addition, on each business day that the Exchange is open for trading, the Fund will disclose on its Web site the contents and percentage weighting of the Futures Basket and the list and percentage weighting of the Asian Benchmark Commodities. The sources the Sponsor uses to determine global production, consumption, and economic tendencies will also be available on the Fund's Web site. The intraday indicative fund value (''IFV'')[19] will be widely disseminated by one or more major market data vendors at least every 15 seconds during the NYSE Arca Core Trading Session.[20] In addition, the value of the Futures Basket will be disseminated at least every 15 seconds. The NAV of the Fund will be released after 4:00 p.m. E.T. and will be disseminated daily to all market participants at the same time.[21] The Exchange will make available on its Web site daily trading volume of the Shares, closing prices of the Shares, and number of Shares outstanding.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange represents that it may halt trading during the day in which an interruption to the dissemination of the IFV, the value of the Futures Basket, or the value of the underlying Futures Contracts occurs. If the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange may halt trading in the Shares if trading is not occurring in the underlying futures contracts, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[22] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Moreover, the trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders[23] acting as registered Market Makers[24] in Trust Issued Receipts to facilitate surveillance. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities included in, or options, futures, or options on futures on, Shares through ETP Holders, in connection with such ETP Holders' proprietary trades or customer trades through ETP Holders which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on exchanges that are members of the Intermarket Surveillance Group (''ISG''), including CME, COMEX, CBOT, NYMEX, ICE US, ICE Canada, DME, and Malaysia. In addition, the Exchange has entered into comprehensive surveillance sharing agreements with ICE Europe and LME that apply with respect to trading in the applicable Futures Contracts. The Sponsor represents that it will implement and maintain procedures designed to prevent the use and dissemination of material non-public information regarding the Futures Basket.

The Exchange represents that the Shares are deemed to be equity

[19] The IFV will be calculated by using the prior day's closing NAV per Share of the Fund as a base and updating that value throughout the trading day to reflect changes in the most recently reported price level of the Benchmark Futures Contracts as reported by Bloomberg, L.P. or another reporting service. The Exchange represents that the normal trading hours of the Futures Exchanges vary, with some Futures Exchanges ending their trading hours before the close of the NYSE Arca Core Trading Session (for example, the normal trading hours of the NYMEX are 10:00 a.m. to 2:30 p.m. Eastern Time or ''E.T.''). When the Fund holds Futures Contracts from Futures Exchanges with different trading hours than the Exchange, there will be a gap in time at the beginning and/or the end of each day during which the Shares are traded on NYSE Arca, but real-time Futures Exchange trading prices for Futures Contracts traded on such Futures Exchanges are not available. During such gaps in time, the IFV will be calculated based on the end of day price of such Futures Contracts from the relevant Futures Exchange's immediately previous trading session. In addition, other Futures Contracts, Other Asian Commodities-Related Investments, and Treasuries held by the Fund will be valued by the Administrator, using rates and points received from client-approved third party vendors (such as Reuters and WM Company) and advisor quotes, and these investments will not be included in the IFV.

[20] According to the Exchange, several major market data vendors display and/or make widely available IFVs taken from the CTA or other data feeds.

[21] Trading during the Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.) on the Exchange typically closes at 4:00 p.m. E.T. The Administrator will use the closing prices on the relevant Futures Exchanges of the Benchmark Futures Contracts (determined at the earlier of the close of such exchange or 2:30 p.m. E.T.) for the contracts traded on the Futures Exchanges, but will calculate or determine the value of all other Fund investments using market quotations, if available, or other information customarily used to determine the fair value of such investments as of the earlier of the close of the NYSE Arca or 4:00 p.m. E.T.

[22] With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in the Shares will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[23] See NYSE Arca Equities Rule 1.1(n) (defining ETP Holder).

[24] See NYSE Arca Equities Rule 1.1(v) (defining Market Maker).

securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Fund and the Shares will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, which include Trust Issued Receipts, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in creation baskets and redemption baskets (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) that a static IFV will be disseminated, between the close of trading on the applicable Futures Exchange and the close of the NYSE Arca Core Trading Session; (f) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (g) trading information.

(5) With respect to application of Rule 10A–3 under the Act,[25] the Trust relies on the exception contained in Rule 10A–3(c)(7).[26]

(6) The Asian Benchmark Commodities will be selected by the Sponsor in accordance with the above four specific quantitative criteria. In the first quarter of each calendar year, the Sponsor will reevaluate the selection of Asian Benchmark Commodities based on the prior year's data. As a result of changes in Asian commodity production, commodity consumption, net imports or exports of commodities, and changes in commodity futures contract liquidity, and in strict accordance with the criteria and factors set forth above, the Sponsor may elect to add or delete a commodity from the list of Asian Benchmark Commodities, and thus the Futures Basket. In making any such change, the Sponsor will file a prospectus supplement informing investors of the proposed changes no less than 30 days prior to the first month in which the commodity or commodities added will become part of the Asian Benchmark Commodities, or 30 days prior to the first month in which the commodity or commodities deleted will no longer be part of the Asian Benchmark Commodities. Any changes to the eligible Asian Benchmark Commodities will also be published on the Web site for the Fund.

(7) The Fund will invest in Benchmark Futures Contracts to the fullest extent possible, turning next to investments in other Futures Contracts, and finally to Other Asian Commodities-Related Investments only if required to by applicable regulatory requirements or in adverse market conditions, each as described herein. The Sponsor represents that the Fund will invest in Asian Commodities Interests in a manner consistent with the Fund's investment objective and not to achieve additional leverage.

(8) With respect to the Fund's investments in Futures Contracts traded on exchanges, not more than 10% of the weight of such Futures Contracts in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(9) The Sponsor will attempt to manage the credit risk of the Fund by following certain trading limitations and policies, including, but not limited to the following: (a) The Fund intends to post margin and collateral and/or hold liquid assets that will be equal to approximately the face amount of the Asian Commodity Interests it holds; (b) the Sponsor will implement procedures that will include, but will not be limited to, executing and clearing trades and entering into over-the-counter transactions only with parties it deems creditworthy and/or requiring the posting of collateral by such parties for the benefit of the Fund to limit its credit exposure; and (c) with respect to over-the-counter derivative contracts, the Fund will generally enter into an agreement with each counterparty based on the Master Agreement published by ISDA that provides for the netting of its overall exposure to its counterparty.

(10) In addition, the Sponsor will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an over-the-counter contract pursuant to guidelines approved by the Sponsor. Furthermore, the Sponsor on behalf of the Fund will only enter into over-the-counter contracts with counterparties who are, or are affiliates of, (a) banks regulated by a United States federal bank regulator, (b) broker-dealers regulated by the Commission, (c) insurance companies domiciled in the United States, and (d) producers, users, or traders of commodities, whether or not regulated by the CFTC. Existing counterparties will be reviewed periodically by the Sponsor. The Fund also may require that the counterparty be highly rated and/or provide collateral or other credit support.

(11) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.[27]

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[28] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NYSEArca–2012–120) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–31668 Filed 1–3–13; 8:45 am]

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[25] 17 CFR 240.10A–3.

[26] 17 CFR 240.10A–3(c)(7).

[27] The Commission notes that it does not regulate the market for futures in which the Fund plans to take positions, which is the responsibility of the CFTC. The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68549; File No. SR–NSCC–2012–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Eliminate the Offset of Its Obligations With Institutional Delivery Transactions that Settle at The Depository Trust Company for the Purpose of Calculating Its Clearing Fund Under Procedure XV of Its Rules & Procedures

December 28, 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 December 17, 2012, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

NSCC proposes to modify its Rules & Procedures (''Rules'') to eliminate the offset of NSCC obligations with institutional delivery (''ID'') transactions that settle at the Depository Trust Company (''DTC'') for the purpose of calculating the NSCC clearing fund (''Clearing Fund'') under Procedure XV of the Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Proposal Overview

A primary objective of NSCC's Clearing Fund is to have on deposit from each applicable Member assets sufficient to satisfy losses that may otherwise be incurred by NSCC as the result of the default of the Member and the resultant close out of that Member's unsettled positions under NSCC's trade guaranty. Each Member's Clearing Fund required deposit is calculated daily pursuant to a formula set forth in Procedure XV of the Rules designed to provide sufficient funds to cover this risk of loss. The Clearing Fund formula accounts for a variety of risk factors through the application of a number of components, each described in Procedure XV.[4]

The Value-at-Risk component, or ''VaR'', is a core component of this formula and is designed to calculate the amount of money that may be lost on a portfolio over a given period of time assumed necessary to liquidate the portfolio, within a given level of confidence.[5] The Market Maker Domination component, or ''MMDOM'', is charged to Market Makers,[6] or firms that clear for them. In calculating the MMDOM, if the sum of the absolute values of net unsettled positions in a security for which the firm in question makes a market is greater than that firm's excess net capital, NSCC may then charge the firm an amount equal to such excess or the sum of each of the absolute values of the affected net unsettled positions, or a combination of both. MMDOM operates to identify concentration within a given CUSIP.

Pursuant to Procedure XV of the Rules, NSCC may calculate the VaR and MMDOM components of a Member's Clearing Fund requirement after taking into account any offsetting pending (i.e., non-fail) ID transactions that have been confirmed and/or affirmed through an institutional delivery system acceptable to NSCC (typically Omgeo LLC (''Omgeo''), a joint venture of the Depository Trust and Clearing Corporation and Thomson Reuters) (''ID Offset'').[7] NSCC is proposing to eliminate the ID Offset from its Clearing Fund calculations in order to eliminate the market risk that, in the event NSCC ceases to act for a Member with pending ID transactions, it may be unable to complete those pending ID transactions in the time frame contemplated by its current Clearing Fund calculations and, as a result, may have insufficient margin in its Clearing Fund.

NSCC reviews its risk management processes against federal securities laws and rulemaking promulgated by the Commission, and applicable regulatory and industry guidelines, including, but not limited to the Principles for Financial Market Infrastructures (''PFMI'') of the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions (''CPSS–IOSCO'').[8] In accordance with Commission rules,[9] specifically Rule 17Ad–22(b)(1) addressing measurement and management of credit exposures, Rule 17Ad–22(b)(2) addressing margin requirements, and Rule 17Ad–22(d)(11) addressing default procedures, and also in accordance with the PFMIs, this proposed rule change should enhance NSCC's ability to more effectively

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] In addition to those described in this filing, Clearing Fund components also include (i) A mark-to-market component which, with certain exclusions, takes into account any difference between the contract price and market price for net positions of each security in a Member's portfolio through settlement; (ii) a ''special charge'' in view of price fluctuations in or volatility or lack of liquidity of any security; (iii) an additional charge relating to a Member's outstanding fail positions; (iv) a ''specified activity charge'' for transactions scheduled to settle on a shortened settlement cycle (i.e., less than T+3 or T+3 for ''as-of'' transactions); (v) an additional charge that NSCC may require of Members on surveillance status; and (vii) an ''Excess Capital Premium'' that takes into account the degree to which a Member's collateral requirement compares to the Member's excess net capital by applying a charge if a Member's Required Deposit, minus any amount applied from the charges described in (ii) and (iii) above, is above its required capital.

[5] NSCC's equity VaR model assumes a 99% confidence interval, uses a 150-day historical look-back period, and assumes a three-day liquidation period. In effect, NSCC assumes the market conditions observed over the past 150 days are predictive of the market conditions expected over the course of the next three business days. Pursuant to Procedure XV, NSCC may exclude from the VaR charge ''Net Unsettled Positions in classes of securities whose volatility is (x) less amendable to statistical analysis, such as OTC Bulletin Board or Pink Sheet issues or issues trading below a designated dollar threshold, or (y) amendable to generally accepted statistical analysis in a complex manner, such as municipal or corporate bonds.'' The charge for such positions is determined by multiplying the absolute value of the positions by a pre-determined percentage.

[6] As used in Procedure XV, the term Market Maker means a firm that is registered by FINRA as a Market Maker.

[7] The changes proposed by this rule filing will not impact NSCC's ID Net Service.

[8] CPSS–IOSCO PFMI (April 2012), available at *http://www.bis.org/publ/cpss101a.pdf.*

[9] Securities and Exchange Commission Release No. 34–68080; File No. S7–08–11 (available at *http://www.sec.gov/rules/final/2012/34-68080.pdf*), to be effective on January 2, 2013.

manage its credit exposures to participants, help ensure that it is able to cover its credit exposures to its participant for all products through an effective, risk-based margin system, limit NSCC's exposures and losses, and enhance protections against market risk that may arise when it ceases to act for a Member with open ID transaction activity.

ID Transactions

The parties involved in an institutional trade include the institutional investor (such as mutual funds, insurance companies, hedge funds, bank trust departments, and pension funds), the investment manager (who enters trade orders on behalf of institutional investors), the buying broker and the selling broker, and custodian banks.[10] Trades between the buying broker and the selling broker are typically settled through NSCC's Continuous Net Settlement system (''CNS'').[11]

Before ID trades are sent to DTC, where they settle delivery versus payment, the trade allocation details are matched between the executing broker and the institutional investor. After an executing broker has provided a final notice of execution associated with the client's order, most institutional clients will provide trade allocation details to the executing broker using a service provided by Omgeo. When the executing broker accepts and processes the trade allocations, an electronic confirmation is provided through Omgeo's TradeSuite service to the institutional investor or its agent (typically the institutional client's custodian bank) for affirmation. Omgeo links with the various parties to institutional trades to provide real-time central matching capabilities, electronically comparing trade details and notifying parties of any exceptions. After the trade allocation details are affirmed, the trade is considered matched and institutional delivery details are sent to DTC for settlement.

Completion of the money and securities settlement of institutional trades occurs at DTC. Because investment managers are not participants of and do not have direct accounts at DTC, their securities are held in custodial accounts with banks who are participants at DTC. Therefore, when the institutional delivery details for confirmed and affirmed ID trades are sent to DTC from Omgeo, the delivering investment manager's custodian bank, or broker, as the case may be, must authorize the delivery, generating a deliver order that will settle in accordance with DTC's rules.

NSCC Risk Management receives a daily feed from Omgeo, including both ID trades that have only been confirmed as well as those that have also been affirmed. For purposes of the ID Offset, NSCC includes ID trades that are confirmed and/or affirmed on trade date (T) and those ID trades which have been affirmed on T+1 and remain affirmed through settlement date (SD).

ID Offset

Procedure XV currently allows for a Member's net unsettled NSCC position in a particular CUSIP to be compared to any pending ID transactions settling at DTC for potential offset for purposes of calculating the VaR and the MMDOM components of a Member's Clearing Fund requirement, defined as the ID Offset. The ID Offset is based on the assumption that, in the event of a Member insolvency, NSCC will be able to close out any trades for which there is a corresponding ID transaction settling at DTC by completing that ID transaction. Therefore, the VaR and the MMDOM components are calculated after taking into account any offsetting pending (i.e., non-fail) ID transactions that have been confirmed and/or affirmed, reducing the Clearing Fund requirement for those Members with ID transactions. ID transactions are included in the ID Offset only if they are on the opposite side of the market from the Member's net NSCC position (i.e., only if they reduce that net position).

Potential Inability To Complete ID Transactions

Generally, when NSCC ceases to act for a Member, it is obligated, for those transactions to which the trade guaranty has attached, to pay for deliveries made by non-defaulting Members that are due, through CNS, to the failed Member (''Long Allocations'') on the day of insolvency and the days following. As described above, the current calculation of the VaR and MMDOM components of NSCC's Clearing Fund are based on the assumption that, in the event of a Member default, NSCC will be able to complete the pending ID transactions that were used to offset that Member's unsettled NSCC position. If NSCC is unable to complete the ID transactions as contemplated by this calculation, then NSCC may need to liquidate a portfolio that could be substantially different than the portfolio that NSCC collected Clearing Fund for, leaving NSCC potentially under collateralized and exposed to market risk.

There are a number of reasons why NSCC may not be able to complete an insolvent Member's open ID transactions. First, NSCC does not guarantee ID transactions and completion of these transactions by the counterparty of the ID transaction, which is not a Member of NSCC, is voluntary. Further, the institutional customer is not a Member of NSCC, is not bound by NSCC's Rules, and is not party to any legally binding contract with NSCC that requires the institutional customer or its custodian to complete the transaction. Finally, based on news that a Member may be in distress or insolvent, the institutional customer or its investment advisor may feel compelled to take immediate market action with respect to the institutional buy or sell transaction, in order to reduce its market risk; this effectively eliminates the option for NSCC to complete these transactions, either entirely or on the timetable assumed by the Clearing Fund calculation.

While NSCC's Risk Management systems net ID transactions by CUSIP across all settlement days for the purposes of the ID Offset, ID transactions settle trade by trade between the executing broker and the custodian. As a result, the netted ID position used to offset the NSCC position could potentially be comprised of thousands of individual trades with hundreds of different counterparties. It would be time consuming for NSCC to contact each counterparty individually to get their agreement to complete ID transactions, which would delay the determination of the portfolio requiring liquidation in the event of a cease to act, and thus hold up the prompt close out of the defaulter's open positions, exposing NSCC to additional market risk not covered by the margin collected.

Implementation Time Frame

Following Commission approval, in order to mitigate the impact of this proposed rule change, NSCC proposes to implement the changes set forth in this filing on over an 18-month period. On a date no earlier than 10 days

[10] Prime broker ID transactions settling at NSCC are not included in the ID Offset, as they are included in the Member's NSCC activity once such transactions are affirmed, and, therefore, are not addressed in this filing. The ID transactions included in the ID Offset and described in this rule filing are activity that is held in custody at a bank.

[11] CNS is NSCC's core netting and allotting system, where all eligible compared and recorded transactions for a particular settlement date are netted by issue into one net long (buy) or net short (sell) position, and NSCC becomes the contra-party for settlement purposes, assuming the obligation of its Members that are receiving securities to receive and pay for those securities, and the obligation of Members that are delivering securities to make the delivery.

following notice to Members by Important Notice (''Initial Implementation Date''), NSCC proposes to eliminate the ID Offset from ID transactions that have only been confirmed, but have not yet been affirmed. At this time, NSCC will continue to apply the ID Offset to ID transactions that have been affirmed. During the 12-month period following the Initial Implementation Date, NSCC will discuss with Members, whose business will be affected by the elimination of the ID Offset, mechanisms to mitigate this impact.

Beginning on a date approximately 12 months from the Initial Implementation Date, and no earlier than 10 days following notice to Members by Important Notice, NSCC will eliminate from the ID Offset all affirmed ID transactions that have reached settlement date at the time the Clearing Fund calculations are run. Three months later, or approximately 15 months following the Initial Implementation Date, and on a date no earlier than 10 days following notice to Members by Important Notice, NSCC will eliminate from the ID Offset all affirmed ID transactions that have reached either settlement date or the day prior to settlement date. Finally, on a date approximately 18 months following the Initial Implementation Date, and no earlier than 10 days following notice to Members by Important Notice, NSCC will eliminate the ID Offset entirely for all ID transactions. Members will be advised of each proposed implementation date through issuance of NSCC Important Notices, which are publically available at *www.dtcc.com.*

The table below illustrates this proposed implementation schedule:

PROPOSED IMPLEMENTATION SCHEDULE FOR ELIMINATION OF ID OFFSETS

Action	Scheduled implementation
Eliminate from ID Offset those ID transactions that have *only* been confirmed, but have not yet been affirmed.	Following approval of rule filing, and on a date no earlier than 10 days following notice to Members by Important Notice (''Initial Implementation Date'').
Eliminate from ID Offset all affirmed ID transactions that have reached Settlement Date (''SD'').	12 months following the Initial Implementation Date, and on a date no earlier than 10 days following notice to Members by Important Notice.
Eliminate from ID Offset all affirmed ID transactions that have reached SD and the day prior to SD (SD–1).	15 months following the Initial Implementation Date, and on a date no earlier than 10 days following notice to Members by Important Notice.
Eliminate from ID Offset all ID transactions	18 months following the Initial Implementation Date , and on a date no earlier than 10 days following notice to Members by Important Notice.

Proposed Rule Changes

NSCC proposes to amend Procedure XV to eliminate the ID Offset from calculation of the VaR and Market Maker Domination components of a Member's Clearing Fund requirement as currently provided for in, with respect to CNS transactions, Section I(A)(1)(a)(i) and Section I(A)(1)(d), and, with respect to Balance Order transactions, Section I(A)(2)(a)(i) and Section I(A)(2)(c).

(b) As a central counterparty, NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions and thereby reducing the risk faced by participants and contributing to global financial stability. In this role, however, NSCC is necessarily subject to certain risks in the event of the default or failure of a Member. NSCC believes that the proposed rule change should help mitigate the risk that NSCC will be under collateralized when it ceases to act for that Member and is unable to complete the Member's ID transactions in the time frame contemplated by its Clearing Fund calculation. As such, NSCC believes the proposal is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),[12] and the rules and regulations thereunder applicable to NSCC, specifically Rule 17Ad–22(b)(1) addressing measurement and management of credit exposures, Rule 17Ad–22(b)(2) addressing margin requirements, and Rule 17AD–22(d)(11) addressing default procedures.[13]

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The rule change will mitigate the market risk that may arise after NSCC has ceased to act for that Member if it is unable to complete the ID transactions in the time frame contemplated by its Clearing Fund calculation, leaving NSCC potentially under collateralized. By mitigating its exposure to this market risk, NSCC believes that the proposed rule change should contribute to the goal of financial stability in the event of Member default, and will render not unreasonable or inappropriate any burden on competition that the changes could be regarded as imposing.

Further, NSCC intends to implement this rule change over an extended period of time, as described herein, allowing Members to address any impact this change may have on their business. This implementation schedule is designed to be fair and not disproportionately impact any Members more than others, and the proposal to implement this rule change over an extended period of time will provide all impacted Members with time to identify mechanisms to mitigate the impact of this proposal on their business.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

While written comments relating to the proposed rule change have not yet been solicited, NSCC has received a letter on behalf of certain Members seeking further review of the impact of the proposed rule change, and consideration of alternatives. NSCC notified the Commission of the contents of the letter and promptly delivered a response to those Members addressing their concerns. A Member working group has been established to discuss mechanisms for impacted Members to

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] Securities and Exchange Commission Release No. 34–68080; File No. S7–08–11 (available at *http://www.sec.gov/rules/final/2012/34-68080.pdf*), to be effective on January 2, 2013.

mitigate the potential impact of the rule changes described in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[14] The clearing agency shall post notice on its Web site of proposed changes that are implemented.

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–NSCC–2012–10 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–NSCC–2012–10. 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 filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2012/nscc/NSCC-2012-10.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–NSCC–2012–10 and should be submitted on or before January 25, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–31670 Filed 1–3–13; 8:45 am]

BILLING CODE 8011–01–P

[14] NSCC also filed the proposals contained in this proposed rule change as an advance notice Pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) thereunder. 12 U.S.C. 5465(e)(1); 17 CFR 240.19b–4(n)(i). Proposed changes filed under the Clearing Supervision Act may be implemented either: at the time the Commission notifies the clearing agency that it does not object to the proposed change and authorizes its implementation, or, if the Commission does not object to the proposed rule change, within 60 days of the later of (i) the date that the advance notice was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. 12 U.S.C. 5465(e)(1)(G).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68548; File No. SR–DTC–2012–10]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Reduce Liquidity Risk Relating to Its Processing of Maturity and Income Presentments and Issuances of Money Market Instruments

December 28, 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 December 17, 2012, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

DTC is proposing to change the current Largest Provisional Net Credit (''LPNC'') risk management control in order to increase withholding from one to two largest provisional credits (on an acronym[3] basis). DTC is also proposing to modify its Rules as they relate to the Issuing/Paying Agent's (''IPA's'') refusal to pay process. DTC is proposing not to permit reversal of a transaction when issuances of Money Market Instruments (''MMIs'') in an acronym exceed, in dollar value, the maturity or income presentments (''Maturity Obligations'') of MMIs in the same acronym on the same day. As a result, at the point in time when issuances of MMIs in an acronym exceed, in dollar value, the Maturity Obligations of the MMIs in the same acronym on that day, DTC will remove the LPNC control with respect to the affected acronym.

II. Clearing Agency's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

MMI presentment processing is initiated automatically by DTC each morning for MMIs maturing that day. The automatic process electronically sweeps all maturing positions of MMI

[3] DTC employs a four-character acronym to designate an issuer's Money Market Instrument program. An issuer can have multiple acronyms. The Issuing/Paying Agent's bank uses the acronym(s) when submitting an instruction for a given issuer's Money Market Instrument securities.

[4] The Commission has modified the text of the summaries prepared by DTC.

CUSIPs from DTC Participant accounts and creates the Maturity Obligations. The matured MMIs are, subject to DTC Rules, delivered to the applicable IPA, a DTC Participant, and DTC debits the IPA's account for the amount of the Maturity Obligations. In accordance with DTC Rules, payment will be due from the IPA for net settlement to the extent, if any, that the IPA has a net debit balance in its settlement account at end-of-day.

Without regard to DTC net settlement, MMI issuers and IPAs commonly view the primary source of funding of payments for Maturity Obligations of MMIs as flowing from new issuances of MMIs in the same acronym by that issuer on that day. In a situation where those new issuances exceed the Maturity Obligations, the issuer would have no net funds payment due to the IPA on that day. However, because Maturity Obligations of MMIs are processed automatically at DTC, IPAs currently may nevertheless refuse to pay for all of an issuer's maturities. An IPA that refuses payment on an MMI must communicate its intention to DTC using the DTC Participant Terminal/Browser Service (''PTS/PBS'') MMRP function. This communication is referred to as an Issuer Failure/Refusal to Pay (''RTP'') and it allows the Paying Agent to enter a refusal to pay instruction for a particular issuer acronym up to 3:00 p.m. Eastern Time (''ET'') on the date of the affected maturity or income presentment. Such an instruction will cause DTC, pursuant to its Rules, to reverse all transactions related to any new issuances in that issuer's acronym, including the Maturity Obligations, posing a potential for systemic risk since the reversals may override DTC's risk management controls (e.g., collateral monitor [5] and net debit cap [6]).

To mitigate the risks associated with an RTP, DTC employs the LPNC risk management control. On each processing day, DTC withholds intraday credit from each MMI Participant for the largest credit with respect to an issuer's acronym, for purposes of calculating the Participant's net settlement balance and collateral monitor. As such, this single largest credit is provisional and is not included in the calculation of the Participant's collateral monitor or in the settlement balance measured against its net debit cap. The LPNC control protects DTC against (i) either the single largest issuer failure on a business day, or (ii) multiple failures on a business day that, taken together, do not exceed the largest provisional net credit.

Maturity payment procedures were designed to limit credit, liquidity, and operational risk for DTC and Participants in the MMI program. In an effort to further mitigate these risks, DTC is proposing the following changes to current processing associated with (1) the LPNC control and (2) limiting intraday MMI reversals under specified conditions:

1. Increase Withholding From one to two LPNCs

DTC is proposing to change the current LPNC risk management control in order to increase withholding from one to two largest provisional credits (on an acronym basis). DTC believes this will provide increased risk protection in the event of transaction reversals due to multiple issuer defaults or a single issuer default with two or more MMI programs.

DTC has conducted a simulation analysis to measure the impact to IPAs and custodians/dealers of an increase in LPNC controls from one to two on settlement blockage [7] intraday during peak processing periods. DTC analyzed the blockage level for both the IPAs and custodians/dealers as separate segments since each react to the additional blockage in different ways. DTC believes the results of the simulation analysis indicated that there will be no material change in transaction blockage.

2. Eliminate Intraday Reversals When MMI Issuances Exceed Maturity Obligations

DTC is also proposing to modify its Rules as they relate to the refusal to pay process. As planned, DTC will not permit reversal of a transaction when issuances of MMIs in an acronym exceed, in dollar value, the Maturity Obligations of MMIs in the same acronym on the same day. In such instances, DTC will not permit reversal of the transactions because the IPA would have no reason to exercise the refusal to pay for that acronym on that settlement day. As a result, at the point in time when issuances of MMIs in an acronym exceed, in dollar value, the Maturity Obligations of the MMIs in the same acronym on that day, DTC will remove the LPNC control with respect to the affected acronym.

DTC believes the proposed changes will provide additional risk protection to DTC and the financial system as a whole. DTC has discussed this proposal with various industry groups, including the Participants that transact in MMIs, and DTC received no objections to the proposal. The Participants understand that the elimination of intraday reversals when issuances exceed Maturity Obligations will result in no material change in transaction blockage.

DTC believes the proposed changes should mitigate risk associated with MMI transaction reversals due to an IPA refusal to pay instruction. Additionally, DTC believes the proposed changes should promote settlement finality by precluding reversals for those issuances. DTC believes the proposed rule change is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),[8] and the rules and regulations thereunder because the proposed changes should facilitate the prompt and accurate clearance and settlement of securities transactions by promoting efficiency in and finality of settlement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will 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

The subject proposal regarding MMIs was developed in consultation with various industry organizations. Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

[5] DTC tracks collateral in a Participant's account through the Collateral Monitor (''CM''). At all times, the CM reflects the amount by which the collateral value in the account exceeds the net debit balance in the account. When processing a transaction, DTC verifies that the CM of each of the deliverer and receiver will not become negative when the transaction is processed. If the transaction would cause either party to have a negative CM, the transaction will recycle until the deficient account has sufficient collateral to proceed or until the applicable cutoff occurs.

[6] The net debit cap control is designed so that DTC may complete settlement, even if a Participant fails to settle. Before completing a transaction in which a Participant is the receiver, DTC calculates the effect the transaction would have on such Participant's account, and determines whether any resulting net debit balance would exceed the Participant's net debit cap. Any transaction that would cause the net debit balance to exceed the net debit cap is placed on a pending (recycling) queue until the net debit cap will not be exceeded by processing the transaction.

[7] Settlement blockage refers to transactions that cannot be completed due to a receiver's net debit cap or collateral monitor controls.

[8] 15 U.S.C. 78q–1(b)(3)(F).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–DTC–2012–10 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–DTC–2012–10. 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2012/dtc/SR-DTC-2012-10.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–DTC–2012–10 and should be submitted on or before January 25, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–31669 Filed 1–3–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0340]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 5, 2013. Comments must be received on or before February 4, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [FMCSA–2008–0340], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line 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., 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 this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on December 29, 2010 (75 FR 82132) at *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from

the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Ricky J. Childress (AL)
Thomas E. DeWitt, Jr. (OH)
David L. Dykman (ID)
Milan D. Frasier (ID)
Harold J. Haier (NY)
Lewis A. Kielhack (IL)
Timothy L. Kelly (TX)
David Lancaster (NE)
Joe A. McIlroy (NY)
Elmer R. Miller (IL)
Richard L. Moreland (MO)
Ronald M. Scott (IN)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (73 FR 75803; 74 FR 6209; 76 FR 4413). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 4, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 27, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–31695 Filed 1–3–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–3637; FMCSA–2000–8203; FMCSA–2002–12844; FMCSA–2006–24015]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 3 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 7, 2013. Comments must be received on or before February 4, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [FMCSA–1998–3637; FMCSA–2000–8203; FMCSA–2002–12844; FMCSA–2006–24015], using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

on-line 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., 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 this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on December 29, 2010 (75 FR 82132) at *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 3 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 3 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Thomas J. Boss (IL)
Casey R. Johnson (MN)
Robert J. Johnson (MN)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) By an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 3 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 65 FR 66293; 67 FR 68719; 68 FR 1654; 68 FR 2629; 69 FR 71098; 69 FR 71100; 71 FR 14566; 71 FR 30227; 72 FR 1054; 74 FR 980; 76 FR 4414). Each of these 3 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 4, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 3 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these

drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 27, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–31696 Filed 1–3–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0327; FMCSA–2010–0354; FMCSA–2010–0385]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 22 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 31, 2013. Comments must be received on or before February 4, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [FMCSA–2010–0327; FMCSA–2010–0354; FMCSA–2010–0385], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comment.
- *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., 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 this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** December 29, 2010 (75 FR 82132) at *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 22 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 22 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Gary Alvarez (MA)
Wayne D. Bost (MD)
James Brasher (AL)
Donald G. Brock, Jr. (NC)
Douglas R. Duncan (TN)
Brett K. Hasty (GA)
Garry Layton (TX)
Cynthia K. Linson (IL)
Boynton L. Manuel (SC)
Anthony Miller (OH)
Wesley G. Moore (AR)
Rocky Moorhead (NM)
Gary J. Peterson (IL)
Michael J. Roberts (MT)
Gary W. Robey (WA)
Bobby Sawyers (PA)
Lynn R. Schraeder (IA)
Myron A. Smith (MN)
Ricky Watts (FL)
John E. Westbrook (LA)
Olen L. Williams, Jr. (TN)
Richard L. Zacher (OR)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the

exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 22 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (75 FR 65057; 75 FR 72863; 75 FR 77492; 75 FR 79081; 76 FR 2190; 76–5425). Each of these 22 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 4, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 22 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 27, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–31693 Filed 1–3–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0178]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Meeting notice—National Emergency Medical Services Advisory Council.

SUMMARY: The NHTSA announces a meeting of NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meeting, which will be open to the public. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to provide advice and recommendations regarding Emergency Medical Services (EMS) to DOT's NHTSA and to the Federal Interagency Committee on EMS (FICEMS).

DATES: The meeting will be held on January 29, 2013, from 8 a.m. to 3:00 p.m. EST, and on January 30, 2013, from 8 a.m. to 12 p.m. EST. A public comment period will take place on January 29, 2013 between 2 p.m. and 2:30 p.m. EST and January 30, 2013 between 11:30 a.m. and 11:45 a.m. EST. Written comments must be received by January 24, 2013.

ADDRESSES: The meeting will be held in the Delaware Room of the Marriott Wardman Park at 2660 Woodley Road NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, U.S. Department of Transportation, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, telephone number 202–366–9966; email *Drew.Dawson@dot.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.). The NEMSAC will meet on Tuesday and Wednesday, January 29–30, 2013, in the Delaware Room of the Marriott Wardman Park at 2660 Woodley Road NW., Washington, DC 20008.

Tentative Agenda of National EMS Advisory Council Meeting, January 29–30, 2013

The tentative agenda includes the following:

Tuesday, January 29, 2013 (8 a.m. to 3 p.m. EST)

(1) Opening Remarks
(2) Update on Programs from the NHTSA Office of EMS and FICEMS Agencies
(3) Discussion of the EMS Culture of Safety Strategy Draft Document
(4) Presentation, Discussion and Possible Adoption of Reports and Recommendations from NEMSAC Workgroups
  a. Advisory on Leadership Developmental Planning in EMS
  b. Advisory on NEMSIS: Achieving its Full Potential for Advancing Healthcare
  c. Advisory on Fatigue in EMS
  d. Compiling Evidence to Discuss the EMS Education Agenda for the Future
  e. Improving Internal NEMSAC Processes
(5) Public Comment Period (2 p.m. to 2:30 p.m. EST)
(6) Discussion of NEMSAC Priorities, Strategies and Values
(7) Business of the Council

Wednesday, January 30, 2013 (8 a.m. to 12 p.m. EST)

(1) Unfinished Business/Continued Discussion from Previous Day
(2) Public Comment Period (11:30 a.m. to 11:45 a.m. EST)
(3) Next Steps and Adjourn

On Tuesday, January 29, 2013, from 3 p.m. to 5 p.m., the NEMSAC work

groups will meet in breakout sessions. These sessions are open for public viewing, but not public participation.

Registration Information: This meeting will be open to the public; however, pre-registration is requested. Individuals wishing to attend must register online at *http://events.SignUp4.com/NEMSACjan2013* no later than January 24, 2013. There will not be a teleconference option for this meeting.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC. Those who wish to make comments on Tuesday, January 29, 2013, between 2 p.m. and 2:30 p.m. EST or Wednesday, January 30, 2013 between 11:30 a.m. and 11:45 a.m. EST are requested to register in advance. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC members at the meeting and should reach the NHTSA Office of EMS by January 25, 2013. Written comments may be submitted by either one of the following methods: (1) You may submit comments by email: *nemsac@dot.gov* or (2) you may submit comments by fax: (202) 366–7149.

A final agenda as well as meeting materials will be available to the public online through *www.EMS.gov* prior to January 29, 2013.

Issued on: December 28, 2012.

Michael L. Brown,

Acting Associate Administrator for Research and Program Development.

[FR Doc. 2012–31691 Filed 1–3–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35710]

Heart of Texas Railroad, L.P.—Acquisition and Operation Exemption—Gulf Colorado & San Saba Railway Company

Heart of Texas Railroad, L.P. (the Company), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Gulf Colorado & San Saba Railway Company (the Seller), and to operate, approximately 67.5 miles of rail line between milepost 0.0 at Lometa, and milepost 67.5 at Brady, in Lampasas, Mills, San Saba and McCullouch Counties, Tex. (the Line).[1]

The Company states that the agreement between the Company and the Seller does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction is expected to be consummated on or about January 28, 2013. The earliest this transaction can be consummated is January 20, 2013, the effective date of the exemption.

The Company certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than January 14, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35710, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Nardi, Transport Counsel PC, 1701 Pennsylvania Ave. NW., Suite 300, Washington, DC 20006.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

By the Board.

Decided: January 2, 2013.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–00044 Filed 1–3–13; 8:45 am]

BILLING CODE 4915–01–P

[1] According to the Company, on July 3, 2012, the Seller filed a voluntary Chapter 11 bankruptcy petition, and, on July 31, 2012, Ronald Hornberger was appointed the Chapter 11 Trustee of the Seller's bankruptcy estate. The Company states that, pursuant to a purchase agreement dated December 17, 2012, it has agreed to acquire Seller's interest in this line of railroad.

FEDERAL REGISTER

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Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 40

Revisions to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket Nos. RM12–6–000 and RM12–7–000; Order No. 773]

Revisions to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: In this Final Rule, pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) approves modifications to the currently-effective definition of ''bulk electric system'' developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization. The Commission finds that the modified definition of ''bulk electric system'' removes language allowing for regional discretion in the currently-effective bulk electric system definition and establishes a bright-line threshold that includes all facilities operated at or above 100 kV. The modified definition also identifies specific categories of facilities and configurations as inclusions and exclusions to provide clarity in the definition of ''bulk electric system.''

In this Final Rule, the Commission also approves: NERC's revisions to its Rules of Procedure, which create an exception process to add elements to, or remove elements from, the definition of ''bulk electric system'' on a case-by-case basis; NERC's form entitled ''Detailed Information To Support an Exception Request'' that entities will use to support requests for exception from the ''bulk electric system'' definition; and NERC's implementation plan for the revised ''bulk electric system'' definition.

DATES: This Final Rule will become effective March 5, 2013.

FOR FURTHER INFORMATION CONTACT:

Susan Morris (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6803.

Nicholas Snyder (Technical Information), Office of Energy Market Regulation, Division of Electric Power Regulation—Central, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6408.

Robert Stroh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8473.

SUPPLEMENTARY INFORMATION:

141 FERC ¶ 61,236

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

FINAL RULE

(Issued December 20, 2012)

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1. Pursuant to section 215(d) of the Federal Power Act (FPA),[1] the Commission approves modifications to the currently-effective definition of ''bulk electric system'' developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO). The Commission finds that the modified definition of ''bulk electric system'' improves upon the currently-effective definition by establishing a bright-line threshold that includes all facilities operated at or above 100 kV and removing language that allows for broad regional discretion. The modified definition also provides improved clarity by identifying specific categories of facilities and configurations as inclusions and exclusions to the definition of ''bulk electric system.''

2. We believe that the proposed ''core'' definition, together with the more granular inclusions and exclusions, should produce consistency in identifying bulk electric system elements across the reliability regions. In addition, we find that NERC's proposed case-by-case exception process to add elements to, and remove elements from, the definition of the bulk electric system adds transparency and uniformity to the determination of what constitutes the bulk electric system.

3. We recognize the substantial work invested by NERC and industry participants in developing the modified bulk electric system definition. We also appreciate that NERC timely submitted the revised definition within the twelve month time frame directed by the Commission in the underlying order, Order No. 743, which tasked NERC with this project.[2] We believe that NERC and industry's efforts provide a technically grounded and legally supportable foundation for identifying elements and facilities that make up the bulk electric system. Other highlights of the Final Rule include:

- Accepts NERC's revisions to its Rules of Procedure, which creates an exception procedure to add elements to, or remove elements from, the definition of ''bulk electric system'' on a case-by-case basis;
- approves NERC's implementation plan for the revised ''bulk electric system'' definition;
- approves NERC's form entitled ''Detailed Information to Support an Exception Request'' that entities will use to support requests for exception from the ''bulk electric system'' definition;
- finds that the Commission can designate sub-100 kV facilities, or other facilities, as part of the bulk electric system, provided that the Commission provides opportunity for notice and comment; and
- establishes a process pursuant to which an entity can seek a determination by the Commission whether facilities are ''used in local distribution'' as set forth in the Federal Power Act.

4. In the Notice of Proposed Rulemaking (NOPR), the Commission requested comment on certain aspects of NERC's petition to better understand the application of the ''core'' definition, as well as the specific inclusions and exclusions.[3] The explanations provided by NERC and other entities in their comments have assisted in our understanding of the parameters of the definition, and we adopt many of these explanations in the Final Rule. However, in two particular circumstances we believe further action is necessary. We direct NERC to implement the bulk electric system definition consistent with the Commission determinations below. Specifically, we direct NERC to implement the exclusions for radial systems and local networks so that they do not apply to tie-lines for bulk electric system generators. In addition, we direct NERC to modify the local network exclusion to remove the 100 kV minimum operating voltage to allow systems that include one or more looped configurations connected below 100 kV, (as shown in figures 3 and 5 below) to be eligible for the local network exclusion. Further explanation of these configurations and the rationale for our determinations is provided below.

I. Background

A. Section 215 of the FPA

5. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[4] The Commission established a process to select and certify an ERO [5] and, subsequently, certified NERC as the ERO.[6]

B. Order No. 693

6. On March 16, 2007, in Order No. 693, pursuant to section 215(d) of the FPA, the Commission approved 83 of 107 proposed Reliability Standards, six of the eight proposed regional differences, and the NERC Glossary, which includes NERC's definition of bulk electric system.[7] That definition provides:

> As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.[8]

7. In approving NERC's definition of bulk electric system, the Commission stated that ''at least for an initial period, the Commission will rely on the NERC definition of bulk electric system and NERC's registration process to provide as much certainty as possible regarding the applicability to and the responsibility of specific entities to

[1] 16 U.S.C. 824o(d) (2006).

[2] *Revision to Electric Reliability Organization Definition of Bulk Electric System,* Order No. 743, 133 FERC ¶ 61,150 (2010), *order on reh'g,* Order No. 743–A, 134 FERC ¶ 61,210 (2011).

[3] *Revision to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure,* Notice of Proposed Rulemaking, 77 FR 39857 (July 5, 2012) 139 FERC ¶ 61,247 (2012) (NOPR).

[4] *See* 16 U.S.C. 824o(e)(3) (2006).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062 (2006), *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006) (certifying NERC as the ERO responsible for the development and enforcement of mandatory Reliability Standards), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[7] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[8] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 75 n.47.

comply with the Reliability Standards.'' [9] The Commission also stated that ''[it] remains concerned about the need to address the potential for gaps in coverage of facilities.'' [10]

C. Order No. 743

8. On November 18, 2010, the Commission revisited the definition of ''bulk electric system'' in Order No. 743, which directed NERC, through NERC's Reliability Standards Development Process, to revise its definition of the term ''bulk electric system'' to ensure that the definition encompasses all facilities necessary for operating an interconnected transmission network.[11] The Commission also directed NERC to address the Commission's technical and policy concerns. Among the Commission's concerns were inconsistencies in the application of the definition and a lack of oversight and exclusion of facilities from the bulk electric system required for the operation of the interconnected transmission network. In Order No. 743, the Commission concluded that the best way to address these concerns was to eliminate the Regional Entity discretion to define bulk electric system without NERC or Commission review, maintain a bright-line threshold that includes all facilities operated at or above 100 kV except defined radial facilities, and adopt an exemption process and criteria for removing from the bulk electric system facilities that are not necessary for operating the interconnected transmission network. In Order No. 743, the Commission allowed NERC to ''propose a different solution that is as effective as, or superior to, the Commission's proposed approach in addressing the Commission's technical and other concerns so as to ensure that all necessary facilities are included within the scope of the definition.'' [12] The Commission directed NERC to file the revised definition of bulk electric system and its process to exempt facilities from inclusion in the bulk electric system within one year of the effective date of the final rule.[13]

9. In Order No. 743–A, the Commission reaffirmed its determinations in Order No. 743. In addition, the Commission clarified that the issue the Commission directed NERC to rectify was the discretion the Regional Entities have under the current definition to define the bulk electric system in their regions without any oversight from the Commission or NERC.[14] The Commission also clarified that the 100 kV threshold was a ''first step or proxy'' for determining which facilities should be included in the bulk electric system.[15]

10. The Commission further clarified that the statement in Order No. 743, ''determining where the line between 'transmission' and 'local distribution' lies * * * should be part of the exemption process the ERO develops'' was intended to grant discretion to NERC, as the entity with technical expertise, to develop criteria to determine how to differentiate between local distribution and transmission facilities in an objective, consistent, and transparent manner.[16] The Commission stated that the ''Seven Factor Test'' adopted in Order No. 888 could be relevant and possibly a logical starting point for determining which facilities are local distribution for reliability purposes.[17] However, the Commission left it to NERC to determine if and how the Seven Factor Test should be considered in differentiating between local distribution and transmission facilities for purposes of determining whether a facility should be classified as part of the bulk electric system.[18] Order No. 743–A re-emphasized that local distribution facilities are excluded from the definition of Bulk-Power System and, therefore, must be excluded from the definition of bulk electric system.[19]

D. NERC Petitions

11. On January 25, 2012, NERC submitted two petitions pursuant to the directives in Order No. 743: (1) NERC's proposed revision to the definition of ''bulk electric system'' which includes provisions to include and exclude facilities from the ''core'' definition; and (2) revisions to NERC's Rules of Procedure to add a procedure creating an exception process to classify or de-classify an element as part of the ''bulk electric system.''

1. Revised Definition of Bulk Electric System

12. In Docket No. RM12–6–000, NERC filed a petition requesting Commission approval of a revised definition of ''bulk electric system'' in the NERC Glossary (NERC BES Petition). The definition consists of a ''core'' definition and a list of facilities configurations that will be included or excluded from the ''core'' definition. NERC proposed the following ''core'' definition of bulk electric system:

> Unless modified by the [inclusion and exclusion] lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.

NERC also requested approval of the proposed ''Detailed Information to Support an Exception Request'' form as satisfying the requirement in Order No. 743 that NERC develop ''technical criteria'' to address exception requests. Finally, NERC requested Commission approval of its plan for implementation of the revised definition of ''bulk electric system.''

a. Inclusions and Exclusions to the Definition of Bulk Electric System

13. As part of the revised definition, NERC developed inclusions and exclusions to eliminate discretion in application of the revised ''bulk electric system'' definition. The inclusions address five specific facilities configurations to provide clarity that the facilities described in these configurations are included in the bulk electric system.

Inclusions:

I1—Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.

I2—Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.

I3—Blackstart Resources identified in the Transmission Operator's restoration plan.

I4—Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.

I5—Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a dedicated

[9] *Id.* P 75; *see also* Order No. 693–A, 120 FERC ¶ 61,053 at P 19 (''the Commission will continue to rely on NERC's definition of bulk electric system, with the appropriate regional differences, and the registration process until the Commission determines in future proceedings the extent of the Bulk-Power System'').

[10] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 77.

[11] Order No. 743, 133 FERC ¶ 61,150 at P 16.

[12] *Id.*

[13] *Id.* P 113.

[14] Order No. 743–A, 134 FERC ¶ 61,210 at P 11.

[15] *Id.* PP 40, 67, 102–103.

[16] *Id.* P 68. *See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,783–84 (1996), *order on reh'g,* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC,* 535 U.S. 1 (2002).

[17] Order No. 743–A, 134 FERC ¶ 61,210 at P 69.

[18] *Id.* P 70.

[19] *Id.* PP 25, 58.

transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion I1.

14. NERC also explained that the facilities described in inclusions I1, I2, I4, and I5 are each operated or connected at or above 100 kV. According to NERC, inclusion I3 encompasses blackstart resources identified in a transmission operator's restoration plan, which are necessary for the operation of the interconnection transmission system and should be included in the bulk electric system regardless of their size (MVA) or the voltage at which they are connected. NERC stated that the inclusions will further reduce the potential for the exercise of discretion and subjectivity to exclude such configurations from the bulk electric system.

15. NERC explained that inclusion I1 includes transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under exclusion E1 or E3. NERC stated that transformers operating at 100 kV or higher are part of the existing definition, but since transformers have windings operating at different voltages, and multiple windings in some circumstances, clarification was required to explicitly identify which transformers are included in the bulk electric system.

16. According to NERC, inclusion I2 includes in the bulk electric system the generator terminals through the high-side of the step-up transformers connected at a voltage of 100 kV or above. NERC states that this inclusion mirrors the text of the NERC Registry Criteria (Appendix 5B of the NERC Rules of Procedure) for generating units.[20]

17. As noted above, inclusion I3 includes blackstart resources identified in the transmission operator's restoration plan in the bulk electric system. NERC added inclusion I4 to accommodate the effects of variable generation on the bulk electric system and inclusion I5 to address static or dynamic devices dedicated to supplying or absorbing reactive power that are connected at 100 kV or higher.

18. NERC's modified definition of bulk electric system also provides four exclusions regarding facilities configurations that are not included in the bulk electric system. Generally, the exclusions address radial systems, behind-the-meter generation and local networks that distribute power to load:

Exclusions:

E1—Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:

(a) Only serves Load. Or,

(b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,

(c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).

Note—A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.

E2—A generating unit or multiple generating units on the customer's side of the retail meter that serve all or part of the retail Load with electric energy if: (i) The net capacity provided to the BES does not exceed 75 MVA; and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.

E3—Local networks (LN): A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk-power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk-power transfer across the interconnected system. The LN is characterized by all of the following:

(a) Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);

(b) Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and

(c) Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).

E4—Reactive Power devices owned and operated by the retail customer solely for its own use.

Note—Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process.

19. NERC explained that exclusion E1 is intended to enhance the clarity of the radial facilities exclusion and that criteria ''b'' and ''c'' of exclusion E1 identify the maximum amount of generation allowed on the radial facility while still qualifying for the radial facilities exclusion. NERC added the ''normally open switch'' note at the end of exclusion E1 to address a common network configuration in which two separate sets of facilities would be recognized as radial systems and not included in the bulk electric system are connected by a ''normally open switch'' which is a switch is set to the open position for reliability purposes.[21]

20. NERC explained that the normally open switch note avoids numerous exception requests because this configuration is common and subjecting two sets of radial facilities that are normally unconnected to each other because the switch between them is open to the Reliability Standards during the limited time periods when the switch is closed for maintenance-related or outage-related circumstances is impractical and unworkable.

21. According to NERC, exclusion E2 excludes a generating unit or units on the customer's side of the retail meter that serves all or part of the retail load subject to allowing a limited amount of generating capacity to be connected and that standby, back-up, and maintenance power services are provided to the generating unit. NERC stated that these generating units are not necessary for the operation of the interconnected transmission network because they serve a single retail load, provide a limited amount of capacity to the bulk electric system, and are fully backed up by other resources.

22. With respect to the ''local network'' exclusion (exclusion E3), NERC explained that it encompasses local networks of transmission elements operated at between 100 kV and 300 kV that distribute power to load rather than transfer bulk power across the interconnected system. NERC further explained that local networks are not intended to provide transfer capacity for the interconnected transmission network and such networks should not be included in the bulk electric system, and the conditions established in exclusion E3 are sufficient to ensure that such local networks are being used exclusively for local distribution purposes. NERC adds that facilities used for the local distribution of electric energy are expressly excluded from the bulk electric system by the core definition as well as by the local network exclusion.[22]

[20] *See* section III.c.1 and III.c.2 of Appendix 5B of the NERC Rules of Procedure.

[21] NOPR, 139 FERC ¶ 61,247 at P 27 (citing NERC BES Petition at 19).

[22] *See* NOPR, 139 FERC ¶ 61,247 at P 30; *See also* NERC BES Petition at 22–23.

b. Detailed Information To Support an Exception Request

23. In response to the Order No. 743 directive to develop technical criteria to use in addressing requests for exceptions to the definition of the bulk electric system, NERC developed an alternative approach because it would be more feasible to develop a common set of data and information that Regional Entities and NERC could use to evaluate exception requests rather than to develop the detailed criteria.[23] The Detailed Information Form contains a common set of data that entities seeking an exception must submit with every exception request. According to NERC, the information that an applicant may submit in support of an exception request is not limited to the Detailed Information Form. Rather, an applicant is expected to submit all relevant data, studies and other information that support the exception request, and the Regional Entity and NERC may ask an applicant to provide other data and studies in addition to the Detailed Information Form.

c. Implementation Plan for Revised Definition of ''Bulk Electric System''

24. NERC requested that the revised definition become effective on the first day of the second calendar quarter after receiving applicable regulatory approval, or, in those jurisdictions where no regulatory approval is required, on the first day of the second calendar quarter after its adoption by the NERC Board of Trustees. NERC stated that the proposed effective date is appropriate to provide a reasonable time between the date of regulatory approval, which is not under the control of NERC or the industry, and the effective date of the revised definition of bulk electric system.

25. NERC also requested that compliance obligations for all newly-identified elements to be included in the bulk electric system should begin twenty-four months after the applicable effective date of the revised definition. While the Commission stated in Order Nos. 743 and 743–A that the transition period should not exceed 18 months, NERC explained that it is requesting a longer transition period in light of the actions that entities will need to complete in connection with the revised definition.

2. NERC Petition for Approval of Revisions To Rules of Procedure To Adopt an Exception Process

26. In Docket No. RM12–7–000, NERC filed proposed revisions to its Rules of Procedure for the purpose of adopting an ''exception process'' mechanism to add elements to, and remove elements from, the bulk electric system. NERC stated that decisions to approve or disapprove exception requests will be made by NERC, rather than by the Regional Entities, thereby eliminating the potential for inconsistency and subjectivity. Further NERC explained that the exception process is ''not intended to be used to resolve ambiguous situations,'' i.e., the exception process is only available after an initial determination has been made regarding whether an element is part of or not part of the bulk electric system through the application of the definition to the element.'' [24]

27. NERC stated that an owner of an element may submit a request to the applicable Regional Entity to include the element in, or remove it from, the bulk electric system.[25] In addition, a Regional Entity, planning authority, reliability coordinator, transmission operator, transmission planner, or balancing authority that has the elements covered by an exception request within its scope of responsibility may submit an exception request for the inclusion of an element or elements owned by a registered entity. Upon receiving an exception request, the applicable Regional Entity will review the exception request and will issue a recommendation to NERC. NERC will evaluate the Regional Entity recommendation, the accompanying technical documents, the Technical Review Panel opinion (if any), and any comments submitted, and will issue a final determination. Finally, NERC stated that an exception request will be subject to review to verify continuing justification for the exception. NERC also stated that an entity must certify every 36 months to the appropriate Regional Entity that the basis for the exception request remains valid. Further, NERC also included a method for an entity to challenge the NERC decision on an exception request to a NERC Compliance Committee. The entity may also appeal the final NERC decision to the Commission within 30 days following the date of the Compliance Committee's decision, or within such time period as the Commission's legal authority permits.

28. In response to the Order No. 743 Commission statement that NERC should maintain a list of exempted facilities that can be made available to the Commission upon request, NERC maintained that the proposed exception process does not include provisions for such a list, adding that this is an internal administrative matter for NERC to implement that does not need to be embedded in the Rules of Procedure.[26] NERC stated it will develop a specific internal plan and procedures for maintaining a list of facilities for which exceptions have been granted.

E. Commission NOPR

29. The Commission issued the NOPR on June 22, 2012, and required that comments be filed within 60 days after publication in the **Federal Register**, or September 4, 2012. While seeking comment on various provisions of NERC's petitions, the NOPR proposed to approve NERC's modification to the currently-effective definition of bulk electric system and changes to the Rules of Procedure to add the exception process. The NOPR also requested comment on the appropriate role for NERC and the Commission in the identification of bulk electric system facilities and elements.

30. The Commission received more than sixty comments on the proposed rulemaking. NERC and other commenters, *inter alia,* respond to the Commissions questions regarding the application of the proposed bulk electric system definition. These comments have assisted us in developing this Final Rule. A list of commenters appears in Appendix A to this Final Rule.[27]

II. Discussion

31. For the reasons discussed below, the Commission adopts the NOPR proposal and approves NERC's revised definition of bulk electric system and the specific inclusions and exclusions set forth in the definition, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Likewise, the Commission approves NERC's revised Rules of Procedure that set forth an exceptions process for determining whether elements and facilities are included in the bulk electric system on a case-by-case basis. While we discuss below specific provisions of the NERC proposal, provisions of the modified bulk electric system definition and related Rules of Procedures not specifically mentioned are approved in

[23] NERC BES Petition at 26.

[24] NOPR, 139 FERC ¶ 61,247 at P 38, *quoting* NERC ROP Petition at 10–11.

[25] *See* NOPR, 139 FERC ¶ 61,247 at PP 39–45, detailing the three-step exception process.

[26] NERC ROP Petition at 49.

[27] Further, NERC, MISO, Consumers, MISO Transmission Owners, Barrick, ITC Companies, and AMP filed reply comments. Although the NOPR did not allow for reply comments, we will accept these pleadings because they have assisted our understanding of NERC's proposal in this Final Rule.

this Final Rule. Below, we address the following matters: (A) Approval of the NERC definition; (B) issues concerning the ''core'' bulk electric system definition; (C) local distribution; (D) exclusions and inclusions in the bulk electric system definition; and (E) NERC's Rules of Procedures exceptions process.

A. Approval of the Revised Bulk Electric System Definition NOPR Proposal

32. In the NOPR, the Commission proposed to approve a modification to the currently-effective definition of ''bulk electric system'' because it removes language allowing for regional discretion in the currently-effective bulk electric system definition, establishes a bright-line threshold that includes all facilities operated at or above 100 kV and identifies specific categories of facilities and configurations as inclusions and exclusions to provide clarity in the definition of bulk electric system.[28]

Comments

33. NERC, Regional Entities, trade organizations and a majority of commenters from various industry segments support the Commission's proposal to approve NERC's proposals. APPA ''strongly support[s]'' NERC's proposed definition.[29] EEI supports NERC's proposals and states that any changes to the definition should be made through the standard development process, not through directives. LPPC, NRECA, and WPPC also support approval of the definition and urge the Commission to adopt the NERC proposal and to refrain from pursuing additional regulatory mandates. Snohomish and WPPC agree that NERC has developed a ''clear and workable definition'' of the bulk electric system that markedly improves the existing definition. They also opine that the definition creates a foundation for reliability that focuses on core elements of the interconnected bulk transmission system, and provides a means for lower-voltage or peripheral elements of the electric system to be excluded from the bulk electric system. Other commenters state that the definition is consistent, repeatable and verifiable and will provide clarity that will assist NERC and affected entities in implementing Reliability Standards.

34. Other commenters, while noting that the NOPR represents a ''positive development,'' believe additional modifications are necessary ''to achieve consistency within the limitations'' of section 215 of the FPA and the Commission's directives in Order Nos. 743 and 743–A.[30]

35. Some commenters oppose approval on various grounds. For example, NARUC is concerned that, even though the definition appears to honor the exclusion of local distribution from the bulk electric system, the definition does not go far enough to ensure ''that a costly analysis * * * is not required to be performed with regard to local distribution elements that are by law excluded.'' [31] NARUC is also concerned that exclusion E3 (local networks) will exclude some, but not all, local distribution elements. According to NARUC, this could cause confusion as to the status of local distribution elements that are not also described in exclusion E3. Consequently, NARUC believes that the definition does not appropriately reflect the statutory limits of the Commission's authority under FPA section 215 and its implementation could unnecessarily overreach into state jurisdictional local distribution facilities.

36. NYPSC believes that the proposed definition will likely result in classifying certain facilities as part of the bulk electric system despite their being unnecessary for operating an interconnected transmission network. NYPSC states that the majority of the 138 kV lines within New York City serve as direct feeders to the networked distribution system serving load. NYPSC also states that there is no technical justification for a 100 kV bright-line definition.[32] NYPSC contends that, even with the exclusions and the exception process, it is uncertain whether an exclusion or exception would apply to the 138 kV lines noted above. NYPSC believes that this approach presumes the Commission has jurisdiction over all facilities operated at 100 kV or above, unless proven otherwise, which inappropriately shifts the legal and technical burdens to the states.

37. NYPSC, NARUC, and the Massachusetts DPU argue that the revised definition does not include a cost impact analysis that weighs costs related to the modified definition against the reliability benefits that the new definition would achieve. They contend that the lack of a cost-benefit analysis accompanying the revised definition represents an additional gap in the process for developing this Reliability Standard. NYPSC and the Massachusetts DPU contend that the costs of compliance with the definition will be excessive. NYPSC states that, according to NERC and the Northeast Power Coordinating Council, Inc. (NPCC), it would exceed $280 million. Thus, they advocate that, given the significant costs that the revised definition could impose on consumers, the Commission should reject NERC's proposed modifications until they are supported by a cost-benefit analysis.

Commission Determination

38. Pursuant to section 215(d)(2) of the FPA, we approve NERC's revised definition of bulk electric system and the specific inclusions and exclusions set forth in the definition, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. NERC's proposal provides additional clarity and granularity that will allow for greater transparency and consistency in the identification of elements and facilities that make up the bulk electric system and is responsive to the technical and policy concerns discussed in Order No. 743.

39. NERC's proposal adequately ensures that all facilities necessary for operating an interconnected electric energy transmission network are included under the bulk electric system. As we observed in Order No. 743,

> ''[U]niform Reliability Standards, and uniform implementation, should be the goal and the practice, the rule rather than the exception, absent a showing that a regional variation is superior or necessary due to regional differences. Consistency is important as it sets a common bar for transmission planning, operation, and maintenance necessary to achieve reliable operation * * *. [W]e have found several reliability issues with allowing Regional Entities broad discretion without ERO or Commission oversight.[33]

The core definition eliminates the provision that allows broad regional discretion, and establishes a 100 kV bright-line threshold for determining, in the first instance, those elements and facilities that are included in the bulk electric system. The definition also includes specific inclusions and exclusions that address typical system facilities and configurations such as generation and radial systems, providing additional granularity that improves consistency and provides a practical means to determine the status of common system configurations. Thus, we agree with commenters that the modified definition is consistent, repeatable and verifiable and will provide clarity that will assist NERC

[28] NOPR, 139 FERC ¶ 61,247 at P 18.

[29] APPA Comments at 7.

[30] Holland Comments at 2.

[31] NARUC Comments at 4.

[32] NYPSC Comments at 3. *See also* Massachusetts DPU Comments at 6–7.

[33] Order No. 743, 133 FERC ¶ 61,150 at P 82 (footnote omitted).

and affected entities in implementing Reliability Standards.

40. Accordingly, the Commission finds that NERC's proposal satisfies the directives of Order No. 743 to develop modifications to the currently-effective definition of bulk electric system to ensure that the definition encompasses all facilities necessary for operating an interconnected transmission network and remove the Regional Entity discretion that currently allows for regional variations without review or oversight. We also find that NERC's definition satisfies the Commission's technical concerns in Order No. 743 through the use of a bright-line 100 kV threshold, with specific inclusions and exclusions within the definition, for identifying bulk electric system elements and the establishment of an exception process for facilities that are not necessary for operating the interconnected transmission network.

41. Moreover, we are not persuaded by the rationale of the commenters who advocate that we remand the NERC proposal. We disagree with NYPSC that the proposed definition will likely result in classifying certain facilities as part of the bulk electric system despite their being unnecessary for operating an interconnected transmission network. An entity that believes its facility is improperly classified as part of the bulk electric system by application of the definition may avail itself of the exception process to have the facility removed from inclusion in the definition. With regard to NYPSC's claim that there is no technical justification for the 100 kV threshold, in Order No. 743, the Commission found ''that many facilities operated at 100 kV and above have a significant effect on the overall functioning of the grid and that the majority of 100 kV and above facilities in the United States operate in parallel with other high voltage and extra high voltage facilities, interconnect significant amounts of generation sources and operate as part of a defined flowgate.'' The Commission explained that this ''illustrates their parallel nature and therefore their necessity to the reliable operation of the interconnected transmission system'' and that ''[p]arallel facilities operated at 100–200 kV will experience similar loading as higher voltage parallel facilities at any given time and the lower voltage facilities will be relied upon during contingency scenarios.'' [34] In addition, in Order No. 743 the Commission identified the reliability concerns created by the current definition and a method to ensure that certain facilities needed for the reliable operation of the nation's bulk electric system are subject to mandatory and enforceable Reliability Standards. The Commission noted that the material impact assessments implemented, for example, by NPCC ''are subjective in nature, and results from such tests are inconsistent in application, as shown through the exclusion of facilities that clearly are needed for reliable operation.'' [35] The Commission also found that the vast majority of 100 kV and above facilities are part of parallel networks with high voltage and extra high voltage facilities and are necessary for reliable operation.[36] Thus, the Commission found that NERC should ''establish a uniform definition that eliminates subjectivity and regional variation in order to ensure reliable operation of the bulk electric system'' and that ''the existing NPCC impact test is not a consistent, repeatable, and comprehensive alternative to the bright-line, 100kV definition we prefer.'' [37]

42. NERC already applies a general 100 kV threshold, and today all regions, with the exception of NPCC, also apply a 100 kV threshold. We also note NYPSC cites to the same methodology that the Commission found dubious in Order No. 743–A where the Commission explained that it had:

> serious concerns about NPCC's [] methodology. The Commission stated that, as a threshold matter, the material impact tests proffered by commenters did not measure whether specific system elements were necessary for operating the system, but, rather, measure the impact of losing the element. The Commission's extensive discussion of the NPCC test further noted that the NPCC methodology is unduly subjective, and results in an inconsistent process that excludes facilities necessary for operating the bulk electric system from the definition.[38]

43. We also disagree with NYPSC's contention that this approach presumes the Commission has jurisdiction over all facilities operated at 100 kV or above, unless proven otherwise, which inappropriately shifts the legal and technical burdens to the states. As noted above and in Order No. 743–A, the suggested solution of a 100 kV threshold paired with an exemption process, in essence, ''merely clarifies the current NERC definition, which classifies facilities operating at 100 kV or above as part of the bulk electric system.'' [39] Thus, we are not persuaded that NERC's proposal inappropriately shifts legal or technical burdens. In addition, the Commission has maintained that the bright-line threshold would be a ''first step or proxy'' in determining which facilities should be included in the bulk electric system. The definition, coupled with the exception process will ensure that facilities not necessary for the operation of the interconnected transmission network will be properly categorized. Further, the Commission's approach for determining whether elements are used for local distribution on a case-by-case basis, as discussed more fully below, addresses NARUC's concerns as to the status of local distribution elements that are not also described in exclusion E3 and that the definition does not appropriately reflect the statutory limits of the Commission's authority under FPA section 215 as well as NYPSC's concern about the Commission having jurisdiction over all facilities operated at 100 kV or above. With regard to the specific examples cited by NYPSC, we find that such determinations are more appropriate for the exception process and beyond the scope of this proceeding.

44. We also disagree with NYPSC and Massachusetts DPU that NERC's proposal is flawed because NERC's petition did not include a formal cost analysis. Order No. 743 did not require such an analysis. Rather, Order No. 743 tasked NERC with certain directives and NERC's petitions are intended to comply with those directives. In addition, while cost of implementation can be relevant in Commission review of a proposed Reliability Standard, the foremost concern is the reliability of the interconnected transmission network.[40] Therefore, we find that NERC's petition adequately addresses the Commission's Order No. 743 directives.

B. The Core Definition of Bulk Electric System

NOPR Proposal

45. In the NOPR, the Commission proposed to approve the bulk electric system ''core'' definition developed by NERC which states as follows:

> Unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy.

In the NOPR, the Commission noted that NERC's proposal appears to satisfy the objectives set forth in Order No. 743.

[34] Order No. 743, 133 FERC ¶ 61,150 at P 73.

[35] Order No. 743, 133 FERC ¶ 61,150 at P 96.

[36] *Id.*

[37] *Id.*

[38] Order No. 743–A, 134 FERC ¶ 61,210 at P 47 (footnotes omitted) (citing Order No. 743, 133 FERC ¶ 61,150 at PP 74, 76 and 85).

[39] Order No. 743–A, 134 FERC ¶ 61,210 at P 36.

[40] *See* Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 330.

The Commission also stated that NERC's ''core'' definition establishes the fundamental threshold for inclusion of facilities in the bulk electric system as those that are operated at 100 kV or higher, if they are transmission elements, or are connected at 100 kV or higher, if they are real power or reactive power resources. In addition, the Commission stated that the core definition also establishes a 100 kV criterion as a bright-line threshold, rather than as a general guideline as in the current definition, i.e., the phrase ''generally operated at'' in the current definition is eliminated.

Comments

46. NERC and a majority of commenters including most trade organizations believe that the core definition satisfies the Order No. 743 directives. By eliminating the language ''as defined by the Regional Reliability Organization'' and ''generally operated at,'' they state that the revised definition eliminates the subjectivity and regional variations that are possible under the current definition.[41] WPPC supports the NERC proposals but is concerned that the NOPR could be read as attempting to impose nationally uniform standards without allowing regional variation. WPPC believes that FPA section 215 requires deference to Regional Entities in developing Reliability Standards and is concerned that the NOPR's references to uniformity of the definition of bulk electric system must be limited by the deference accorded to Regional Entities in the statute.

47. Other commenters seek modification of the core definition. For example, PSEG Companies believe that the core definition will introduce subjectivity because it omits facilities and systems necessary to operate the facilities above 100 kV, such as protection systems, underfrequency load shedding systems and control centers.[42] PSEG Companies suggest the addition of demand response above 75 MW within a balancing authority into the definition. In the same vein, ISO New England suggests including capacity resources connected below 100 kV and identifies protection systems, under-frequency and under-voltage load shedding systems, inclusion of non-bulk electric system facilities into transmission and operational planning, and control rooms as items that are important to operating the bulk electric system but not in the definition. ISO New England, therefore, believes that NERC should make the determination whether or not these facilities and control systems must comply with Reliability Standards independent of their designation. Valero seeks clarification that the core definition excludes elements ''that are owned and used by an industrial end-user to serve its load.'' [43]

48. Similarly, IUU and Barrick state that industrial generators are intrastate facilities that serve only the owner's load and believe that they are excluded from the jurisdiction of the Commission.[44] IUU and Barrick believe that some of the Reliability Standards appear to reach beyond the limits imposed by Congress and into these intrastate industrial generator facilities. According to IUU and Barrick, the definition needs an additional exclusion that excludes these intrastate facilities.

49. Several commenters that support the NERC proposal also comment on matters not specifically raised in the NOPR. APPA recommends that the Commission state that it expects NERC will continue to treat the Phase 2 bulk electric system definition project as a priority in the 2013 budget year. APPA also requests that the Commission direct NERC to expedite the deregistration process for those entities or facilities that are no longer designated as part of the bulk electric system under the new definition or through application of the Rules of Procedure exception process. APPA believes that an expedited deregistration process would reduce the associated burden on entities that are no longer required to document compliance due to the revisions in the bulk electric system definition and the exception process.

50. Redding requests that, due to the connection between the definition and the NERC Functional Model, the Commission should direct revisions to the NERC Functional Model to accommodate entities that own or operate facilities that technically qualify as transmission but that have a limited, if any, impact on reliability.

Commission Determination

51. We find that the ''core'' definition satisfies the Order No. 743 directives to remove the subjectivity and regional variations that are possible under the current definition by eliminating the language ''as defined by the Regional Reliability Organization'' and ''generally operated at,'' in the revised definition. The ''core'' definition, quoted above, establishes the fundamental threshold for inclusion of facilities in the bulk electric system as those that are operated at 100 kV or higher, if they are transmission elements, or are connected at 100 kV or higher, if they are real power or reactive power resources. The core definition also establishes a 100 kV criterion as a bright-line threshold, rather than as a general guideline as in the current definition, i.e., the phrase ''generally operated at'' in the current definition is eliminated. The core definition also continues to capture equipment associated with the facilities included in the bulk electric system.

52. Other than the directive to modify exclusion E3 as discussed below, the Commission declines to direct NERC to further modify the definition or the specified inclusions and exclusions. Specifically, we will not direct further revisions to address demand response, protection systems and other facilities or equipment as separate inclusions or exclusions as advocated by ISO New England, PSEG Companies, IUU or Barrick.[45] Rather, NERC has indicated that it has initiated a Phase 2 of the development project for the definition of bulk electric system, and interested stakeholders have the opportunity in the first instance to raise their ideas in that forum regarding possible additions, inclusions and exclusion set forth in the bulk electric system definition.[46]

53. Moreover, in the NOPR we acknowledged NERC's statement that the core definition also continues to capture equipment associated with the facilities included in the bulk electric system.[47] In the NOPR we agreed with NERC that while the new definition does not use the term ''associated equipment,'' the phrase is included in the definition through the defined term ''Transmission Elements.'' [48] We adopt the NOPR proposal that the term ''associated equipment,'' is included in the definition through the defined term ''Transmission Elements'' which could

[41] *See e.g.,* NERC, APPA, EEI, NRECA, ELCON, the Regional Entities, NV Energy, National Grid, Southern Companies, Duke Energy, International Transmission Company, TAPS, BPA, Hydro One and IESO, and Snohomish.

[42] PSEG Comments at 4–6.

[43] Valero Comments at 3.

[44] *See also* Barrick Reply Comments at 2–3.

[45] We note that, in Order No. 693, the Commission recognized demand side management as a type of resource for contingency reserve that should be treated on a comparable basis with other resources; and must meet similar technical requirements as other resources providing this service. Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 330–335.

[46] According to NERC, due to time constraints in meeting the compliance deadline set in Order No. 743, NERC separated the development of the revised definition into two phases. *See* NERC Petition at 46. NERC stated that Phase 1 culminated in the language of the proposed modified definition that is the primary subject of this Final Rule. Phase 2, which is ongoing, intends to focus on other industry concerns raised during Phase 1.

[47] NOPR, 139 FERC ¶ 61,247 at PP 16, 55.

[48] NOPR, 139 FERC ¶ 61,247 at P 55 n.69.

include the facilities identified by PSEG Companies.

54. With regard to Valero's clarification, that the core definition excludes elements ''that are owned and used by an industrial end-user to serve its load,'' Valero can either seek to have this matter addressed generically, if appropriate, in NERC's Phase 2, or seek to have this addressed on a case-by-case basis in the exception process that we approve in this Final Rule.

55. We decline, as APPA requests, to direct NERC to expedite the deregistration process for those entities who own or operate facilities that are no longer designated as part of the bulk electric system. We do not expect there to be significant numbers of entities either needing to register or deregister due to the change in definition.[49] To the extent entities seek to deregister, NERC, as the ERO, can determine the appropriate timeframe for making such a determination. We also decline to order NERC to modify the Functional Model as Redding requests as the issues Redding raises are outside the scope of this proceeding. In response to WPPC's concern, this Final Rule adopts the revised definition which eliminates regional discretion for determining whether an element is part of the bulk electric system. It does not address or subsume the ability of Regional Entities to develop Reliability Standards for their regions that meet criteria for regional Reliability Standards.

56. In summary, the Commission finds that NERC's proposal adequately addresses the concerns articulated in Order No. 743 regarding regional discretion and the need for a consistent approach and satisfies the concerns regarding the elimination of inconsistencies across regions.

C. Local Distribution

NOPR Proposal

57. The NOPR noted that, although Order No. 743 acknowledged that ''Congress has specifically exempted 'facilities used in the local distribution of electric energy' '' it still is necessary to determine which facilities are local distribution, and which are transmission.[50] The NOPR observed that Order No. 743–A stated that ''[w]hether facilities are used in local distribution will in certain instances raise a question of fact, which the Commission has jurisdiction to determine.'' [51] In addressing what constitutes local distribution, NERC stated in its petition that facilities used for the local distribution of electric energy are expressly excluded from the bulk electric system by the core definition as well as by the local network exclusion, exclusion E3.[52] In the NOPR, the Commission requested comment regarding how NERC's proposed definition is responsive to the Commission's directives in Order Nos. 743 and 743–A. Specifically, the Commission requested comment on how NERC's proposal adequately differentiates between local distribution and transmission facilities in an objective, consistent, and transparent manner.

Comments

58. NERC and numerous commenters state that the definition adequately differentiates between local distribution and transmission.[53] NERC states that the revised definition distinguishes between bulk electric system facilities and non-bulk electric system facilities and local distribution facilities fall into the latter category.[54] NERC adds that, by applying the definition, facilities used for local distribution will not be included due to their specific exclusion in the core definition. NERC and others also state that the exception process can be used to determine whether facilities are used for local distribution when an entity believes such facilities have been improperly included.[55]

59. While ELCON generally agrees with NERC's position, ELCON comments that NERC's proposal does not fully respond to the Commission's directive in Order Nos. 743 and 743–A. ELCON maintains that a definition of ''local distribution'' is necessary to avoid including assets that are clearly used for the local distribution as part of the bulk electric system. ELCON expresses concern that industrial consumers' equipment that is rated 100 kV or above will be designated as a component of the bulk electric system, irrespective of whether such elements are material for the reliable operation of the interconnected Bulk-Power System. ELCON recommends that the Commission address this issue by establishing a joint working group with NARUC to draft a proposed definition of local distribution to exclude certain facilities from the scope of the definition of bulk electric system.

60. Some entities that generally agree with NERC also suggest clarifications to improve the distinction between local distribution and transmission. MISO suggests that, to identify local distribution facilities, the Commission direct NERC to clarify the last sentence of the core definition by ''cross-referencing'' the exclusion criteria in the definition.[56] Snohomish requests that the Commission clarify that the Seven Factor Test established in Order No. 888 is one element that can be used to evaluate an exception request in addition to other engineering and technical considerations.[57]

61. Other commenters contend that NERC's proposal does not adequately differentiate between local distribution and transmission facilities or reflect the statutory limits of the Commission's authority under FPA section 215.[58] As noted above, NARUC states that the NERC definition does not appropriately reflect the statutory limits of the Commission's authority under Federal Power Act Section 215 and its implementation could unnecessarily overreach into state jurisdictional local distribution facilities. NARUC maintains that, while the definition of bulk electric system appears to exclude local distribution by restating the law, the definition does not go far enough to ensure that a costly analysis applying for an ''exception'' is not required to be performed with regard to local distribution elements that are by law ''excluded.'' NARUC contends that the mere fact that a subset of local distribution elements expressly excluded from the bulk electric system by the core definition are specifically identified in exclusion E3 could cause confusion as to the status of local distribution elements that are not also described in E3. Similarly, the Steel Manufacturers Association states that the Commission cannot allow NERC's exception process to determine the boundaries of the Commission's jurisdiction.

62. Consumers Energy believes that the definition does not differentiate between transmission and local distribution because ''Transmission Elements'' and ''local distribution'' are undefined. Consumers Energy states that the Commission should clarify that any facilities that have been found by the Commission to be local distribution pursuant to the Seven Factor Test are

[49] *See* NOPR, 139 FERC ¶ 61,247 at P 132.

[50] Order No. 743–A, 134 FERC ¶ 61,210 at P. 67.

[51] NOPR, 139 FERC ¶ 61,247 at P. 58, *quoting* Order No. 743–A, 134 FERC ¶ 61,210 at P. 67.

[52] NOPR, 139 FERC ¶ 61,247 at P. 59, (citing NERC BES Petition at 16).

[53] *See e.g.,* APPA Comments at 8–9, EEI Comments at 4, NRECA Comments at 7, Hydro One Comments at 3, NV Energy Comments at 3–4, PHI Companies Comments at 3, TAPS Comments at 3, BPA Comments at 3, WPPC Comments at 27–30.

[54] NERC Comments at 6.

[55] *See e.g.* WPPC Comments at 28.

[56] MISO Comments at 4.

[57] Snohomish Comments at 3.

[58] *E.g.,* NARUC, Holland, NYPSC, and SmartSenseCom.

also local distribution under FPA section 215 and therefore outside the bulk electric system.[59] Consumers references a prior Commission declaratory order accepting the Michigan Public Service Commission's determination of transmission and local distribution facilities.[60] Consumers notes that it sold all of its ''bulk electric system elements'' to Michigan Electric Transmission Company, who is the registered transmission owner. ITC Companies and MISO filed reply comments requesting that the Commission reject the coordination and continuity aspect of Consumers' proposal to automatically exclude from the definition those facilities that are ''in series'' with transmission facilities that are included in the bulk electric system definition.[61] In addition, they state that this is not the proper proceeding to address whether specific facilities may or may not be part of the bulk electric system. Consumers filed a motion to strike the MISO reply comments.

63. Portland is concerned that the Commission is assessing its reliability jurisdiction without addressing ''the inconsistency between its reliability jurisdiction and its traditional 'transmission' jurisdiction under FPA section 201(b).'' Portland states that the Commission could clarify that for entities who apply the local distribution exception in good faith, any future regulatory determination that such distribution facilities are to be treated as part of the bulk electric system within the scope of FPA section 215 regulation will be prospective only.[62]

64. Holland argues that, aside from the exclusions in the core definition, there are no criteria or guidelines that exclude local distribution facilities from the bulk electric system. Holland also argues that if an entity challenges a registration, there is no guidance as to what information NERC will consider whether to recognize the facilities in question as local distribution and exclude them from the bulk electric system. Holland contends that the proposed Rules of Procedure fail to provide any distinction between those facilities that must be excluded because they are local distribution versus those that should be excluded because, although they meet the [bulk electric system] bright-line criteria, they are not necessary for the reliable operation of the interconnected transmission system. Holland claims that the exception process does not make ''any distinction between criteria necessary for determining those facilities that must be excluded because they are local distribution versus those that should be excluded because they [ ] meet the [bulk electric system] criteria, but are not material.''[63] Holland adds that ''because the exclusions are not comprehensive, and because the 'exceptions' process provides no further guidance on the proper exclusion of these facilities, there would be no basis to support a conclusion that the NOPR has effectively and transparently identified, let alone justified, a second class or test for identifying local distribution for purposes of Section 215 of the FPA.''[64] Similarly, Massachusetts DPU comments that exception requests will inevitably involve difficult questions regarding whether a facility is ''used in the local distribution of electric energy,'' an area over which states have exclusive authority under the FPA.[65]

65. Valero requests that the Commission direct NERC to develop criteria based on a ''primary function test'' to exclude facilities used in local distribution. In addition, Valero states that the Commission should ''provide guidance to NERC by [ ] stating that, to constitute distribution, a facility need not be used *exclusively* for distribution purposes.[66] Further, Valero contends that NERC's ''distribution use only'' position contradicts the plain language of sections 201 and 215 of the FPA. Valero states that its ''discrete on-site electrical equipment'' is designed only to serve load at its refineries. While the facilities may enhance the reliability of electric service, Valero asserts they are only used by an industrial end-user of electricity for ''the local distribution of electric energy'' and must be excluded from the bulk electric system. The Power Agencies ask for clarification of footnote 79 in the NOPR and assume that the Commission is clarifying that certain facilities may not satisfy the revised definition, but may constitute transmission facilities for purposes other than applying FPA section 215.[67]

Commission Determination

66. For the reasons discussed below, we find that NERC's ''core'' definition of bulk electric system definition, together with exclusion E3 (local networks), is consistent with the section 215 exclusion of local distribution facilities. We also find that, while NERC's case-by-case exceptions process is appropriate to determine the technical issue of whether facilities are part of the bulk electric system, the jurisdictional question of whether facilities are used in local distribution should be decided by the Commission.

67. NERC's ''core'' definition provides a 100 kV threshold for determining whether elements or facilities are included in the bulk electric system. As we indicated in Order No. 743, the 100 kV threshold is a reasonable ''first step or proxy'' for determining which facilities should be included in the bulk electric system. Indeed, it is reasonable to anticipate that this threshold will remove from the bulk electric system the vast majority of facilities that are used in local distribution, which tend to be operated at lower, sub-100 kV voltages. Moreover, applying the four exclusions in NERC's proposed definition should serve to further exclude facilities used in local distribution from the bulk electric system. In particular, as NERC indicates, exclusion E3 (local networks)—although not synonymous with local distribution—should serve to reasonably exclude many above-100 kV facilities that are used in local distribution. Based on the information provided in NERC's petition, as well as the supporting comments of EEI and others, we anticipate that the ''core'' definition together with exclusion E3 should provide a reasonable means to accurately and consistently determine on a generic basis whether facilities are part of the bulk electric system. In other words, most local distribution facilities will be excluded by the 100 kV threshold or exclusion E3 without needing to seek a Commission jurisdictional determination. Accordingly, we find this aspect of NERC's petition reasonable.

68. In addition to the definition, NERC also submitted revisions to the Rules of Procedure (discussed below in greater detail) that allow for a case-by-case exception process. Included in this process is an opportunity for entities to seek to exclude facilities from the bulk electric system because they are used in local distribution. NERC's petition does not provide criteria or guidance that it would apply in the case-by-case exception process to determine whether

[59] Consumers Comments at 3–8.

[60] Consumers Comments at 4 (citing July 29, 1998 letter order in Docket No. EL98–21–000).

[61] ITC Reply Comments at 6–7.

[62] Portland Comments at 4.

[63] Holland Comments at 6.

[64] Holland Comments at 9. *See also* Barrick Reply Comments at 2.

[65] Massachusetts DPU Comments at 10.

[66] Valero Comments at 8–12 (emphasis in original) (citing *Detroit Edison* v. *FERC,* 334 F.3d 48, 54 (D.C. Cir. 2003)).

[67] *See* NOPR, 139 FERC ¶ 61,247 at P 60 n.79 stating that ''an element that falls outside of the definition of bulk electric system is not necessarily local distribution.''

an element above 100 kV should be excluded as local distribution, as directed in Order No. 743.[68] Thus, we cannot conclude that the case-by-case exception process will ''adequately differentiate[] between local distribution and transmission facilities in an objective, consistent, and transparent manner.'' [69]

69. In Order No. 743, the Commission stated that determining the line between transmission and local distribution should be part of the exception process and left it to NERC in the first instance to determine how to make such a determination.[70]

After further review of NERC's proposal in this proceeding, and upon consideration of the comments submitted, we believe that it is more appropriate that the Commission make such case-by-case jurisdictional determinations when necessary, and to apply the Seven Factor Test set forth in Order No. 888 to make such determinations. The determination whether an element or facility is ''used in local distribution,'' as the phrase is used in the FPA, requires a jurisdictional analysis that is more appropriately performed by the Commission.[71] Further, Commission review of whether a facility is used in local distribution comports with relevant legal precedent. As we explained in Order No. 743–A, ''[w]hether facilities are used in local distribution will in certain instances raise a question of fact, which the Commission has jurisdiction to determine.'' [72]

70. As noted above, application of the ''core'' definition and the four exclusions should serve to exclude most facilities used in local distribution from the bulk electric system. However, there may be certain circumstances that present a factual question as to whether a facility that remains in the bulk electric system after applying the ''core'' definition and the four exclusions should nonetheless be excluded because it is used in local distribution. In such circumstances, which we expect will be infrequent, an entity must petition the Commission seeking a determination that the facility is used in local distribution.[73] Such petitions should include information that will assist the Commission in making such determination, and notice of the petition must be provided to NERC and relevant Regional Entities.

71. In addressing such petitions, the Commission will apply the Seven Factor Test set forth in Order No. 888. In Order No. 888, the Commission articulated the Seven Factor Test to determine, on a case-by-case basis, whether a facility is a local distribution facility or a transmission facility.[74] However, the Commission has found that the factors identified in the Seven Factor Test are not exclusive when determining whether an element is used for local distribution. Specifically, the Commission recognized that the Seven Factor Test does not resolve all possible issues and that ''there may be other factors that should be taken into account in particular situations.'' [75] The Commission will apply a similar analysis in determining in the context of FPA section 215 whether a facility is used in local distribution. In other words, while the starting point for the Commission's analysis will be an analysis based on the Seven Factor Test, the Commission will consider other factors that should be taken into account in particular situations.

72. To reiterate, we expect that the 100 kV threshold as a ''first step or proxy'' for determining which facilities should be included in the bulk electric system, plus the four exclusions (in particular the local network exclusion E3), will exclude many facilities that are used in local distribution and thus should be excluded from the bulk electric system. This approach recognizes that, although local distribution facilities are excluded from the definition, it still may be necessary to determine which facilities are local distribution, and which are transmission. Whether facilities are used in local distribution will in certain instances raise a question of fact, which the Commission has jurisdiction to determine. We decline to clarify, as Portland requests, that for entities who apply the local distribution exception in good faith, any future regulatory determination that such distribution facilities are to be treated as part of the bulk electric system within the scope of FPA section 215 regulation will be prospective only. As explained above, in circumstances where a factual question remains after applying the ''core'' definition and the exclusions, entities must apply to the Commission for a determination of whether an element is used in local distribution. We believe this approach provides a means to maintain consistency and transparency across the various reliability regions but still have the necessary flexibility to make case-by-case determinations appropriate for reliability.

73. To the extent the various reply comments by ITC Companies, MISO and Consumers raise questions about the status of specific facilities, we decline to address them in this Final Rule as this rulemaking proceeding is not the proper forum to decide such matters.

D. Inclusions and Exclusions in the Definition of Bulk Electric System NOPR Proposal

74. In the NOPR, the Commission proposed to approve, in addition to the core definition, specific inclusions and exclusions because the inclusions and exclusions provide added clarity regarding which elements are part of the bulk electric system as compared to the existing definition. In the NOPR, the Commission also posed questions about how some of the inclusions and exclusions will be applied to better understand potential applications of the inclusions and exclusions, their effect on identifying the facilities or elements for bulk electric system reliability, and whether possible gaps exist. We address these questions below.

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[68] The Commission, in Order No. 743–A, explained that ''the Seven Factor Test could be relevant and possibly is a logical starting point for determining which facilities are local distribution for reliability purposes, while also allowing NERC flexibility in applying the test or developing an alternative approach as it deems necessary.'' Order No. 743–A, 134 FERC ¶ 61,210 at P 69. NERC, in its petition, did not adopt a specific test or criteria for determining whether a facility is local distribution, but indicated that an entity seeking an exception for local distribution facilities could provide a ''seven factor'' analysis as one means to support the petition. NERC BES Petition at 49.

[69] *See* NOPR, 139 FERC 61,247 at P 59.

[70] Order No. 743, 133 FERC ¶ 61,150 at P 38.

[71] *Standardization of Generator Interconnection Agreements and Procedures,* Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 803 (2003), *order on reh'g,* Order No. 2003–A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g,* Order No. 2003–B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g,* Order No. 2003–C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs* v. *FERC,* 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied,* 552 U.S. 1230 (2008) (''Local distribution' is a legal term; under FPA Section 201(b)(1), the Commission lacks jurisdiction over local distribution facilities.'').

[72] Order No. 743–A, 134 FERC ¶ 61,210 at P 67 and n.78, (citing *California Pacific Electric Co., LLC,* 133 FERC ¶ 61,018 at n.59 (2010) (citing *FPC* v. *Southern California Edison Co.,* 376 U.S. 205, 210 n.6 (1964) (asserting that ''the Supreme Court has determined that whether facilities are used in local distribution involves a question of fact to be decided by the [Commission] as an original matter.''))). *See also Connecticut Light & Power Co.* v. *Federal Power Commission,* 324 U.S. 515, 534–35 (1945).

[73] Such petitions will be assigned an ''RC'' docket prefix. The determinations would be public proceedings subject to notice and comment requirements which will allow NERC and interested parties (including state regulators) to provide input on a petition.

[74] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,771, 31,783–84, Appendix G.

[75] Order No. 888–A, FERC Stats. & Regs. ¶ 31,048 at 30,242.

1. Inclusion I1 (Transformers)

NOPR Proposal

75. Inclusion I1 includes as part of the bulk electric system ''[t]ransformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under [the radial system or local network exclusion].'' In its petition, NERC explained that, due to transformers having multiple windings operating at differing voltages, the intent of inclusion I1 includes transformers operating at 100 kV or higher on the primary winding and at least one secondary winding.[76]

76. In the NOPR, the Commission stated that NERC's approach to inclusion I1 ''is a reasonable approach to identifying transformers that are appropriately included as part of the bulk electric system.'' [77] However, the Commission expressed concern whether a particular transformer—operated at 100 kV or higher on the primary winding but all secondary terminals are operated below 100 kV—should be part of the bulk electric system or whether the exception process would be sufficient to include these transformers.[78] The Commission also requested comment on whether transformers that have a terminal operated at 100 kV or above on the high side and below 100 kV on the low side should be designated as part of the bulk electric system.

Comments

77. NERC supports allowing the exception process to include the transformers described by the Commission. NERC states that the ''vast majority'' of transformers with low side voltages step down to a voltage class that is designed for distribution to load. NERC adds that the 100 kV threshold for secondary windings provides a ''clear demarcation'' between facilities used to transfer power as opposed to those that serve load. According to NERC, while there are instances where transformers with secondary windings below 100 kV are connected in parallel with high voltage transmission lines, it is not possible to craft a bright-line inclusion of such transformers because the distinction may hinge on function as opposed to the physical characteristics of the transformer. NERC states that the exception process can evaluate whether such transformers should be included in the bulk electric system. A majority of commenters share NERC's position and believe that most transformers with the configuration described by the Commission in the NOPR do not impact the bulk electric system and those that do can be classified as part of the bulk electric system through the exception process.[79]

78. SoCal Edison agrees with NERC, but identifies transformers operated in parallel with the bulk electric system as those that should be designated as part of the bulk electric system irrespective of the operational voltage of the transformer. SoCal Edison argues that information regarding such transformers should be provided to the impacted entities, e.g., reliability coordinators and neighboring regional entities. SoCal Edison contends that including these types of transformers in the bulk electric system would have made the Regional Entities, reliability coordinators, transmission operators and balancing authorities aware of the contingencies of the transformers and their impact on the bulk electric system in the September 2011 blackout.

79. SmartSenseCom states that transformers that operate at 100 kV or above with any secondary windings below 100 kV should be included. On the other hand, Consumers does not support inclusion I1 because it goes beyond the Commission's jurisdiction and would confuse the distinction between the bulk electric system and local distribution. Consumers argues that inclusion I1 may create a ''moving registration target'' if related facilities are added to the bulk electric system.[80]

Commission Determination

80. We find that inclusion I1 is a reasonable approach to identifying transformers that are appropriately included as part of the bulk electric system. We agree with NERC that inclusion I1 includes transformers operating at 100 kV or higher on the primary winding and at 100 kV or higher on at least one secondary winding. With regard to the Commission's concern in the NOPR about inclusion of a transformer that is operated at 100 kV or higher on the primary winding but all secondary terminals are operated below 100 kV, we agree with NERC that it is appropriate for such transformers to be considered for inclusion through the exception process. We are persuaded that transformers with low side voltages stepped down to a voltage class that is designed to distribute power to load and, therefore, the 100 kV threshold for secondary windings provides an initial screening between facilities used to transfer power as opposed to those that serve load. We agree with NERC's assessment that crafting an inclusion for transformers described by the Commission is difficult because the distinction may hinge on function as opposed to the physical characteristics of the transformer. Therefore, we decline to include such transformers in inclusion I1.

81. With regard to the specific configurations identified by SoCal Edison (transformers that operate in parallel with the bulk electric system irrespective of the operational voltage of the transformer), we will not make a determination of general application. Rather, such matters should be addressed in the case-by-case exception process.

82. We do not agree with Consumers that inclusion I1 would be ineffective because it would include lower voltage distribution facilities that were not designed to provide reliability to the bulk electric system or prevent cascading outages. The 100 kV threshold for secondary windings provides a bright line between facilities used to transfer power as opposed to those that serve load, and if a transformer is included pursuant to inclusion I1, but an entity believes it is not necessary for operation of the interconnected transmission network, it may be considered for exclusion through the exception process.

2. Inclusion I2 (Generating Resources)

NOPR Proposal

83. Inclusion I2 of the bulk electric system definition provides for specific inclusion of generating resources with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA. NERC developed this inclusion based on the text of the Registry Criteria for generating units while providing clarity by including ''the generator terminals through the high-side of the step-up transformer connected at a voltage of 100 kV or above.'' [81]

84. In the NOPR, the Commission agreed that inclusion I2 is consistent with the individual and aggregate nameplate rating thresholds set forth in

[76] NERC BES Petition at 17.

[77] NOPR, 139 FERC ¶ 61,247 at P 63.

[78] In the NOPR the Commission noted that the joint NERC and Commission staff report on the September 8, 2011, Arizona-Southern California blackout explains how transformers of this type were not monitored or analyzed by the reliability coordinator, transmission operators and balancing authorities. NOPR, 139 FERC ¶ 61,247 at P 63.

[79] *E.g.* APPA, EEI, ELCON, WREA, Anaheim, Riverside, Imperial Irrigation District, G&T Cooperatives, NV Energy, NESCOE, and TAPS.

[80] Consumers Comments at 9–10.

[81] NERC BES Petition at 17.

the Registry Criteria but noted the differing descriptions of the connection point of the generating resources.[82] Inclusion I2 specifies ''generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above,'' and the Registry Criteria specifies a ''direct connection'' to the Bulk-Power System. Accordingly, the Commission requested comment whether inclusion I2 will result in a material change to registration of existing generating units due to the difference in the language regarding the connection point. The Commission also requested comment if a generating unit, with a gross individual nameplate rating greater than 20 MVA connected through the high-side of the step-up transformer connected at a voltage of 100 kV or above when the low side of the transformer is less than 100 kV, is included in the bulk electric system pursuant to inclusion I2. Further, the Commission asked how this result differs for a generation resource with two or more step-up transformers where the last transformer in the series operates at 100 kV or above.

Comments

85. Most commenters do not believe that inclusion I2 will materially change registration of generating resources. NERC states that inclusion I2 connection point language merely clarifies the ''directly connected'' language in the Registry Criteria. NERC explains that while most generation is connected through a unit transformer on the high voltage bus within a facility, there are instances where generators are connected to lower voltages within a facility. NERC adds that most of these types of configurations are in older facilities where the higher voltage bus was added after the original generators. NERC confirms that the specific scenario described by the Commission would result in the generator being included in the bulk electric system provided that the transformers reside within a single site boundary and are used only to step-up the output voltage of the generator.[83] APPA and others agree with NERC's view. APPA adds that, if the transformers in question are also used to deliver power to serve local load, the generation resources and transformers should be excluded from the bulk electric system.[84] PSEG Companies believe that inclusion I2 addresses the issue regarding two step-up transformers in series. PSEG Companies explain that both step-up transformers are part of the generator per inclusion I2 if the purpose of the transformers is to solely step-up the output voltage.

86. Arizona Public Service requests that the Commission clarify whether the voltage connection language in inclusion I2 applies only to the aggregated 75 MVA threshold or also to the 20 MVA threshold for individual generating units. Southern Companies believe that there are instances where generators may be connected to lower voltages that may fit under inclusion I2 but would not necessarily fit in the Registry Criteria.

87. Some commenters do not support inclusion I2 for varying reasons. Dominion opposes inclusion of elements such as those provided for in inclusion I2 that are already subject to reliability standards because the element meets the criteria in the NERC Compliance Registry. ISO New England states that the connection language in inclusion I2 should be eliminated. ISO New England maintains that interpreting inclusion I2 to be based on generator plant size, independent of the voltage connection, is important from a generator stability modeling view point. This is because generators connected at voltages less than 100 kV can have a significant impact on system stability.[85] ISO New England supports adding generators connected at lower voltages but not the system to which the generators are connected. ISO New England believes that adding generators, regardless of their connection voltage levels, would increase the universe of registered generators and would enhance reliability.

88. MISO recommends that the Commission clarify that operators of generating resources included through inclusion I2 will only be subject to Reliability Standards for generators unless a specific determination is made that other standards should apply to a particular piece of equipment. MISO believes that, without this clarification, inclusion I2 could increase the number of transmission operators by including generation equipment.

89. Barrick believes that the term ''gross plant/facility'' in inclusion I2 needs to be clarified. Barrick states that it is not clear whether the terms are based on geographic proximity or structural definition. Barrick is also concerned that inclusion I2 is based on ''gross'' rating while exclusion E2 is based on net capacity and exclusion E3(a) is based on a non-retail basis, and that read together inclusion I2 and exclusions E2 and E3(a) appear to be in conflict.[86] In reply comments, Barrick suggests that, instead of focusing on nameplate ratings, the focus should be on the normal configuration and operation of generation.

90. SmartSenseCom states that the Commission should direct NERC to modify inclusion I2 to include generating units that are stepped up to 100 kV or above containing a transformer with a low side below 100 kV because, at these levels, generating resources should be presumed to impact reliability. SmartSenseCom contends that Reliability Standards should apply to such facilities ''in light of their potential impact to system reliability, especially given the increasing levels of distributed generation penetration that is expected in the near future.'' [87] Springfield questions whether multiple individual units are considered one unit if they have a shared bus. Springfield believes that such instances should not be considered individually.

Commission Determination

91. The Commission approves inclusion I2. Based on the language of inclusion I2, its derivation from the Registry Criteria and the statements from NERC and commenters, the Commission concludes that application of inclusion I2 will not materially change registration of generating resources. The Commission accepts NERC's explanation that the inclusion I2 connection point language merely clarifies the ''directly connected'' language in the NERC Registry Criteria, section III.c.1. Further, the Commission agrees with NERC and other commenters that multiple step-up transformers that are solely used to deliver the generation to the bulk electric system at 100 kV or above qualify the generator and the step-up transformers pursuant to inclusion I2.

92. APPA and commenters claim that, if a transformer is also used to deliver power to serve local load, through, for example a 69 kV network, the generation resources and transformers should be excluded from the bulk electric system. The Commission agrees with the specific example. In such cases, local load refers to end-user load and not generator-specific station service load. This example depicts a generator whose step-up transformer delivers the generation to a voltage level of 69 kV and thus does not meet the criteria in inclusion I2. A second

[82] NOPR, 139 FERC ¶ 61,247 at P 65.

[83] NERC Comments at 9–10. *See also* comments of EEI.

[84] APPA Comments at 14–15. *See also* comments of National Grid, TAPS, NESCOE, and G&T Cooperatives.

[85] ISO New England Comments at 4.

[86] Barrick Comments at 10.

[87] SmartSenseCom Comments at 12.

transformer in this example that connects the 69 kV network to the bulk electric system is not solely delivering the generation to the bulk electric system but also delivers power from the bulk electric system to the 69 kV network.

93. Regarding Arizona Public Service's request for clarification, the Commission finds that the voltage connection language in inclusion I2 applies to both the aggregated 75 MVA threshold for a plant/facility and the 20 MVA threshold for individual units.

94. The Commission disagrees with Dominion's contention that inclusion I2 is not needed because the elements identified in inclusion I2 already meet the Registry Criteria. The NERC registration process uses element criteria to identify and register functional entities, not the actual equipment. In contrast, the focus of the bright-line definition is the facilities, not the owners or operators of the facilities. Similarly, with regard to Southern Companies' belief that there are instances where generators may be connected to lower voltages that may fit under inclusion I2 but would not necessarily fit in the Registry Criteria, the Commission agrees that the Registry Criteria allows the Regional Entities and NERC to consider other factors regarding entity registration which may result in cases where the bulk electric system status and registry status differs for certain equipment owners and operators.

95. Regarding ISO New England's assertion that generators that connect to the bulk electric system via transmission facilities with voltages below 100 kV are needed for reliability, the Commission believes these generators can be added to the bulk electric system through the exception process, and if registration is warranted for the owners and operators of these generators, the Registry Criteria provides NERC and the Regional Entities the option of registering ''[a]ny generator, regardless of size, that is material to the reliability of the Bulk Power System.'' [88] Aggregate stability impacts of generation below 100 kV could fall into this category of ''material to the reliability of the Bulk Power System.''

96. With respect to the suggestions and requests for clarification submitted by MISO, Barrick, SmartSenseCom and Springfield, commenters may raise these suggestions in NERC's Phase 2 development effort.

[88] NERC Statement of Compliance Registry Criteria, section III.c.4.

3. Inclusion I3 (Blackstart Resources)

NOPR Proposal

97. NERC included as part of the bulk electric system definition ''Blackstart Resources identified in a Transmission Operator's restoration plan.'' In the NOPR, the Commission agreed with NERC that inclusion of blackstart resources in the definition is vital to reliability and is an improvement to the definition. The Commission requested clarification whether the term ''restoration plan'' refers to the system restoration plans required in the Emergency Preparedness and Operations (EOP) Reliability Standards or included in a Commission approved tariff.[89] The Commission also expressed concern whether a reliability gap exists with regard to cranking paths. The Commission explained that cranking paths are an important element of system restoration, and questioned ''whether reliability can be adequately maintained when blackstart generators are defined as part of the bulk electric system but not the transmission paths that are used to deliver the energy from blackstart generators to the integrated transmission system.'' [90] Accordingly, the Commission requested comment on whether a reliability gap exists and also requested comment on the appropriate role, if any, of state regulators in ensuring that energy from blackstart generation is reliably delivered through cranking paths to restart the system after an event.

Comments

98. NERC confirms that the ''restoration plan'' in inclusion I3 refers to the restoration plans in the EOP Reliability Standards. Other commenters support NERC's explanation.[91] With regard to cranking paths, NERC explains that cranking paths above 100 kV are included in the bulk electric system by the core definition. NERC states that some cranking paths identified in a restoration plan ''are composed of distribution system elements.'' [92] NERC adds that certain Reliability Standards, such as Reliability Standards CIP–002–4 and EOP–005–2, address reliability of cranking paths without regard to voltage which demonstrates there are other ways to ensure reliable operation of the bulk electric system without including non-bulk electric system cranking paths within the definition. In contrast, PSEG Companies request that, if the Commission supports NERC's exclusion of cranking paths below 100 kV, the Commission confirm that below 100 kV cranking paths would be excluded from being enforced in Reliability Standards that address cranking paths unless they are added to the bulk electric system by the exception process.[93]

99. Other commenters agree that no reliability gap exists and that the Commission correctly noted that including cranking paths may improperly bring distribution level elements into the bulk electric system. Southern Companies and others contend that if a cranking path that does not fall within the definition of bulk electric system but is needed for reliability, the exception process would be the place to make that determination.[94] NESCOE states that cranking paths are generally part of the distribution system and state regulators have the responsibility to ensure the reliability of these lower voltage facilities and are acutely aware of the importance of effective blackstart capability. NESCOE adds that these facilities are needed for restoration not for continuous operation.[95] ODEC is concerned that including cranking paths will create an incentive for generators not making their units available for blackstart services. Alameda suggests that ''any potential gap can be closed by requiring [t]ransmission [o]perators (''TOPs'') that identify blackstart generation and a related cranking path or paths in their system restoration plans to analyze and enter into an operating agreement with the owner of identified cranking path facilities not owned by the [transmission operator].'' [96]

100. While other commenters agree that the term ''restoration plan'' refers to the EOP Reliability Standards, they assert that cranking paths should be included in the bulk electric system. Idaho Power, ITC Companies and BPA assert that cranking paths are crucial to system restoration and implicate reliability even if they are local distribution or below 100 kV facilities.[97] ITC Companies state that not including cranking paths will cause regional differences and inconsistent application resulting in some owners electing to

[89] NOPR, 139 FERC ¶ 61,247 at P 67. Reliability Standard EOP–005–1, System Restoration Plans, requires a transmission operator to create ''a restoration plan to reestablish its electric system in a stable and orderly manner in the event of a partial or total shutdown of its system.''

[90] NOPR, 139 FERC ¶ 61,247 at P 68.

[91] *E.g.* EEI, APPA, Southern Companies, SoCal Edison, PSEG Companies, and NV Energy.

[92] NERC Comments at 11.

[93] PSEG Comments at 10.

[94] Southern Companies Comments at 7. *See also* TAPS Comments at 5.

[95] NESCOE Comments at 10.

[96] Alameda Comments at 6.

[97] Idaho Power Comments at 4, ITC Companies at 3–4. *See also* BPA Comments at 3–4.

exclude such assets. Without cranking paths included in the definition, ITC Companies state that they will be ''required to ensure its blackstart plan does not include blackstart generators connected to transmission facilities at voltages below 100 kV since [they] could not be assured that the proper standards are being followed for these blackstart cranking paths.'' [98]

101. MISO recommends that the Commission clarify that the term ''restoration plan'' refers to the EOP Reliability Standards but not include all blackstart resources in a Commission-approved tariff. MISO is concerned that including blackstart resources from sources other than the EOP Reliability Standards is not necessary for reliability and could encourage generators to remove blackstart resources in order to avoid being subject to ''unduly complex requirements.'' [99]

Commission Determination

102. We find that NERC's inclusion of blackstart resources in the definition is an improvement to the definition. We also agree with NERC's statement that the ''restoration plan'' in inclusion I3 refers to the restoration plans in the EOP Reliability Standards. With regard to cranking paths, the Commission declines to include all cranking paths regardless of voltage level. The Commission finds that cranking paths operating at or above 100 kV are included in the bulk electric system by the core definition, and if a cranking path that does not fall within the definition of bulk electric system, (i.e. operating at or above 100 kV) but is needed for reliability, such elements can be included in the bulk electric system through the exception process. We also disagree that not including cranking paths will cause regional differences and inconsistent application resulting in some owners electing to exclude such assets. The revised definition includes all Transmission Elements at or above 100 kV. Thus, to the extent a cranking path is operating at or above 100 kV and a ''Transmission Element,'' it would be included in the bulk electric system. If a cranking path is below 100 kV and is necessary for operation of the interconnected transmission network or operates at or above 100 kV and is not necessary for the operation of the interconnected transmission network, the status of the cranking path may be determined in the exception process. These steps will ensure consistent treatment across the regions. In response to ITC Companies' concern that, without cranking paths included in the definition it will be required to ensure its blackstart plan does not include blackstart generators connected to transmission facilities at voltages below 100 kV, we note that such elements can be considered for inclusion through the exception process. Similarly, with regard to NESCOE's statement that lower voltage cranking paths are generally part of the distribution system, we note that facilities operating below 100 kV would be excluded as part of applying of the core definition. In addition, as we discuss above, in certain instances the Commission will make determinations as to which facilities are used in local distribution and thus should be excluded from the bulk electric system.[100]

103. With regard to PSEG Companies' request that the Commission confirm that Reliability Standards do not apply to below 100 kV cranking paths unless they are added to the bulk electric system by the exception process, we find that PSEG Companies' request is outside the scope of this proceeding but note that Reliability Standard EOP–005–2 addresses cranking paths with no voltage limits.[101]

4. Inclusion I4 (Dispersed Power Producing Resources)

NOPR Proposal

104. NERC asserts inclusion I4, dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating), is needed ''to accommodate the effects of variable generation'' on the bulk electric system.[102] NERC further stated that even though inclusion I4 could be considered subsumed in inclusion I2 (generating resources), NERC believes it is appropriate ''to expressly cover dispersed power producing resources utilizing a system designed primarily for aggregating capacity.'' [103]

105. In the NOPR the Commission stated that inclusion I4 provides ''useful granularity'' in the bulk electric system definition, but requested comment whether inclusion I4 includes ''the individual elements (from each energy-producing resource at the site through the collector system to the common point at a voltage of 100 kV or above) used to aggregate the capacity and any step-up transformers used to connect the system to a common point at a voltage of 100 kV or above.'' [104]

Comments

106. NERC states that the inclusion is meant to address the dispersed power producing resources themselves, not the individual elements of the collector systems operated below 100 kV. With regard to energy delivery elements in collector systems and interconnection facilities, NERC states these items were specifically not included in inclusion I4. According to NERC, this decision was intended to avoid categorically including as part of the bulk electric system assets that may include local distribution facilities. EEI believes that inclusion I4 applies to generating resources meeting the threshold in the aggregate, not the individual generating units. EEI agrees with NERC that the inclusion does not include individual elements of the collector systems operated below 100 kV. LPPC believes that generating units aggregating to 75 MVA are often very small and non-dispatchable, and the reliability implications of these units will be negligible but the compliance burden would be quite high.

107. Several commenters urge the Commission to not interpret inclusion I4 as including wind turbines and electrical collector systems within a wind plant and only include the electrical equipment at the point of interconnection with the bulk electric system.[105] AWEA believes that including all this equipment will potentially burden the owners with NERC compliance processes that were intended for large scale generators. AWEA argues that the ''main transformer's high-side terminal and the generator lead/tie line'' should also be excluded unless another generator connects to the initial generator's facilities.[106] AWEA asserts that no one has demonstrated that there is any material reliability benefit from including resources envisioned by inclusion I4. AWEA and others state that if the Commission believes such resources should be included, such inclusion should be done on a case-by-case basis rather than generically.[107]

[98] ITC Comments at 5.

[99] MISO Comments at 6.

[100] *See supra* PP 66–73.

[101] Reliability Standard EOP–005–2, Requirement R6 states ''[e]ach [t]ransmission [o]perator shall verify through analysis of actual events, steady state and dynamic simulations, or testing that its restoration plan accomplishes its intended function. This shall be completed every five years at a minimum.'' Requirement R6.1 states that the transmission operator shall verify ''[t]he capability of [b]lackstart [r]esources to meet the [r]eal and [r]eactive [p]ower requirements of the [c]ranking [p]aths and the dynamic capability to supply initial [l]oads.''

[102] NERC BES Petition at 18.

[103] *Id.*

[104] NOPR, 139 FERC ¶ 61,247 at P 71.

[105] *See, e.g.,* AWEA, Southern Companies, Consumer Energy, BPA. Hydro One, G&T Cooperatives, and ISO New England.

[106] AWEA Comments at 2.

[107] *E.g.,* Idaho Power.

108. Along the same lines, NESCOE believes that, absent a reliability risk a generic inclusion could adversely impact state policies to encourage renewable generation development by imposing additional costs. NESCOE states that setting the line for inclusion at 75 MVA is not supported by technical analysis since intermittent sources of power deliver only a fraction of their nameplate rating. NESCOE believes 300 MVA is a better threshold.

109. ISO New England contends that the term ''common point'' is unclear and notes that the inclusion could be interpreted to mean that if the individual generating units are ''all collected at 34.5 kV, the 'common point' is at 34.5 kV and the entire group of resources should be found to be [not part of the bulk electric system].'' [108] ISO New England believes this is not an appropriate interpretation because it would defeat the intent of the inclusion which is to classify large aggregated generating stations as part of the bulk electric system. Similarly, Springfield questions the meaning of ''collector system'' and proposes language to define it.[109]

110. SmartSenseCom states that facilities over a certain significant nameplate rating that are stepped up to over 100 kV should be subject to Reliability Standards in light of their potential impact to system reliability. SmartSenseCom suggests that the Commission direct NERC to modify inclusions I2 and I4 in order to ensure that generating units that are stepped up to 100 kV or above by the use of a transformer with a low side of less than 100 kV (or multiple contiguous transformers of less than 100 kV on the low side) are also included within this definition.[110]

111. MISO recommends that the Commission withdraw its proposal to approve inclusion I4. MISO believes inclusion I4 is unnecessary given the criteria in inclusion I2. MISO states that elements meeting the criteria in inclusion I2 would be considered part of the bulk electric system, irrespective of whether it is considered a dispersed power producing resource. MISO adds that a specific inclusion for dispersed power producing resources could subject the collector systems to unnecessary monitoring by the reliability coordinator or other registered entities as collector systems at dispersed power producing facilities generally do not affect the reliability of the bulk electric system.

Commission Determination

112. The Commission finds that inclusion I4 provides useful granularity in the bulk electric system definition. The clarifying language in inclusion I4 regarding the collector system language is consistent with language in the Registry Criteria, section III.c.2. The Commission agrees that it is appropriate ''to expressly cover dispersed power producing resources utilizing a system designed primarily for aggregating capacity.'' [111]

113. As the Commission previously stated in the inclusion I2 discussion, multiple step-up transformers that are solely used to deliver the generation to the bulk electric system at 100 kV or above qualify the generator or plant/facility and the step-up transformers for inclusion in the bulk electric system.

114. Similarly, the collector system in inclusion I4, described by NERC and others as being designed for aggregating capacity and solely used to deliver the aggregated capacity to the bulk electric system at 100 kV and above, falls into the category of multiple step-up transformers through the high side of the main transformer that connects to 100 kV or above. NERC reasons that proposed inclusion I4 was intended to avoid categorically including assets that may include local distribution facilities. While we believe most collector systems operate below 100 kV, the Commission disagrees that collector systems described in inclusion I4 that solely deliver aggregated generation to the bulk electric system contain local distribution facilities because power is delivered from the collector system to the bulk electric system. However, the Commission will not direct NERC to categorically include collector systems pursuant to inclusion I4.

115. We disagree with AWEA and other commenters that contend that inclusion I4 should be interpreted to not include the dispersed power producing resources within a wind plant in the bulk electric system. We agree with NERC's statement that the purpose of this inclusion is to include such variable generation (e.g., wind and solar resources). NERC noted that, while such generation could be considered subsumed in inclusion I2 (because the gross aggregate nameplate rating of the power producing resources must be greater than 75 MVA), NERC considered it appropriate for clarity to add this separately-stated inclusion to expressly cover dispersed power producing resources using a system designed primarily for aggregating capacity. In addition, although dispersed power producing resources (wind, solar, etc.) are typically variable suppliers of electrical generation to the interconnected transmission network, there are geographical areas that depend on these types of generation resources for the reliable operation of the interconnected transmission network. The Commission believes that owners and operators of these resources that meet the 75 MVA gross aggregate nameplate rating threshold are, in some cases, already registered and have compliance responsibilities as generator owners and generator operators. Regarding AWEA's request that a transformer's high-side terminal and the generator lead line should also be excluded, such determinations may be made on a case-by-case basis in the exception process. With regard to commenters who believe that dispersed power producing resources should be included on a case-by-case basis rather than generically, this would be inconsistent with the bright-line concept that NERC developed to have consistent application of the definition across the country. If such generating resources are included through inclusion I4, they are eligible for exclusion through use of the exception process. With respect to the concern raised by ISO New England regarding the term ''common point,'' ISO New England may raise this concern in NERC's Phase 2 development effort.

5. Inclusion I5 (Static or Dynamic Reactive Power Devices)

NOPR Proposal

116. Inclusion I5 identifies as part of the bulk electric system ''[s]tatic or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion I1.'' In its petition, NERC explained that this inclusion is the technical equivalent of inclusion I2 (generating resources), for reactive power devices and points out that the existing definition is unclear as to how these devices are treated.[112] NERC stated inclusion I5 provides clarity by ''providing specific criteria for Reactive Power devices, thereby further limiting subjectivity and the potential for

[108] ISO New England Comments at 7.

[109] Springfield proposes to add the following sentence at the end of inclusion I4: ''For purposes of this inclusion, a Collector System is any infrastructure not connected to load—where parasitic load associated with a generation unit or units is not considered load.''

[110] SmartSenseCom Comments at 12.

[111] NERC BES Petition at 18.

[112] NERC BES Petition at 18.

discretion'' in the application of the revised definition.[113]

117. In the NOPR, the Commission agreed with NERC that inclusion I5 adds clarity to the application of the bulk electric system definition by providing specific criteria for reactive power devices. For cases where the reactive power device is connected through a transformer designated in inclusion I1, the Commission requested comment whether both the reactive power device and the transmission elements connecting the reactive power device to the transformer are included as part of the bulk electric system pursuant to inclusion I5.[114]

Comments

118. NERC and other commenters note that inclusion I5 is intended to include the reactive resource itself and the other portions of the definition are intended to designate whether the remaining electrical components are part of the bulk electric system.[115] NERC, EEI, National Grid, Utility Services and G&T Cooperatives refer to inclusion I1 as the proper place to determine whether transformers connected to reactive devices are included as part of the bulk electric system.

119. BPA and WPPC support excluding both the reactive device and the transformer from the bulk electric system if the device supports local distribution. Conversely, if the facilities provide reactive and voltage support to the bulk electric system, the reactive device and associated equipment, such as the transformer, should be classified as a bulk electric system facility.

120. AEP considers the transmission elements connecting the reactive power device to the transformer to be included in the bulk electric system definition and should be deemed part of inclusion I5.[116] Idaho Power contends that both the reactive device and the transformer should be included in the bulk electric system. Idaho Power states that if the transformer is included as part of inclusion I1, then it should be included.[117]

121. PSEG Companies view the issue as one of ''bulk electric system contiguity'' and therefore should be addressed during Phase 2. MISO recommends that the Commission require NERC to include a size threshold or an impact test. According to MISO, this will avoid creating incentives to owners of small reactive devices to disconnect them to avoid being classified as transmission owners or operators. With regard to transformers, MISO states that both the reactive power device and the transmission elements are included, but because these facilities have a generally localized impact on reliability, MISO recommends that the Commission clarify that they are not transmission equipment that subjects their owners and operators to the requirements applicable to registered transmission operators under the NERC Reliability Standards.

122. G&T Cooperatives suggest two clarifications. First, inclusion I5 should not apply to reactive power devices that are connected to the bulk electric system by a radial line excluded by exclusion E1 or a local network excluded by exclusion E3. G&T Cooperatives view this exclusion as implicit in inclusion I5, which references devices ''connected at 100 kV or higher, or through a dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in [i]nclusion I1.'' Second, G&T Cooperatives believe that inclusion I5 should be clarified to include a minimum size threshold similar to the size threshold for generating resources under Inclusion I2. According to G&T Cooperatives because inclusion I2 does not apply to all generating resources and inclusion I5 is the ''technical equivalent'' of inclusion I2, a size threshold comparable to that found in inclusion I2 is implicit for reactive power devices.

Commission Determination

123. The Commission approves inclusion I5 and finds that the inclusion adds clarity to the application of the bulk electric system definition by providing specific criteria for reactive power devices. The Commission also accepts NERC's response for cases where the reactive power device is connected through a transformer designated in inclusion I1—that the reactive resource itself is included in the bulk electric system pursuant to inclusion I5 and the transmission elements connecting the reactive power device to the transformer are addressed in other portions of the definition. The Commission notes that this interpretation is different from inclusion I2 because inclusion I2 specifies including the equipment (step-up transformers) that connects generators to the bulk electric system. Nonetheless inclusion I5 provides criteria for reactive power devices that are not explicitly addressed in the existing definition. The Commission does not agree with G&T Cooperatives that exclusions E1 and E3 override inclusion I5 and exclude the reactive power devices. Exclusions E1 and E3 exclude transmission elements only and not resources.

124. The Commission agrees with PSEG Companies that issues, such as whether the connecting equipment for reactive devices should be included pursuant to inclusion I5, can be raised in Phase 2. Similarly, the issues raised by AEP, Idaho Power, MISO and G&T Cooperatives may be raised in NERC's Phase 2 effort.

Exclusions

125. The proposed definition identifies four facilities configurations that should not be included in the bulk electric system: (1) Radial systems; (2) behind-the-meter generating units; (3) local networks; and (4) retail customer reactive power devices.

126. We agree that the proposed exclusions provide clarity and granularity. For example, the exclusion of generating units on the customer's side of the retail meter that serves all or part of the retail load (exclusion E2) and the exclusion for reactive power devices owned and operated by a retail customer for its own use (exclusion E4) provide reasonable limitations on bulk electric system elements. While we approve in the Final Rule the language of exclusions E1, E2 and E4, we have concerns with regard to the application of exclusions E1 and E3 in specific situations and, thus, direct NERC to implement or apply these exclusions consistent with the determinations set forth below. In addition, we direct NERC to remove the 100 kV minimum operating threshold language from exclusion E3.

6. Exclusion E1 (Radial Systems)

127. Exclusion E1 provides as follows:

> Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:
>
> (a) Only serves Load. Or,
>
> (b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,
>
> (c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).
>
> **Note**—A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.

[113] *Id.*

[114] NOPR, 139 FERC ¶ 61,247 at P 73.

[115] *E.g.,* EEI.

[116] AEP Comments at 4.

[117] Idaho Power Comments at 5.

In its petition, NERC explained that radial facilities are excluded under the currently effective bulk electric system definition, and the detailed criteria in the revised definition provide enhanced clarity.[118]

Commission Determination

128. The Commission approves exclusion E1. We agree with NERC that the currently-effective definition of bulk electric system excludes radial facilities, and the modifications provide additional granularity regarding the radial exclusion. In the NOPR, the Commission requested comment regarding specific applications of the E1 radial system exclusion. Below, we discuss these applications and comments received, and provide further explanation or direction as we deem appropriate.

a. Exclusion E1 Does Not Apply to Whether Generation Is Included or Excluded

NOPR Proposal

129. In the NOPR, the Commission requested comment on whether exclusion E1 removes from the bulk electric system ''generation connected to a radial system that otherwise satisfies inclusion I2.'' [119] The Commission sought to ensure that the conditions in exclusion E1 would not ''lead to conflicting results when applying inclusion I2 and exclusion E1.[120] The Commission noted that exclusion E1 applies to ''a group of contiguous *transmission* Elements that emanates from a single point of connection of 100 kV or higher * * *.'' [121] The Commission observed that the term ''Elements'' includes the term generator, and that the use of the term ''transmission'' before ''Elements'' indicates that exclusion E1 applies only to transmission elements.[122] Thus, the Commission stated that ''transmission Elements'' do not include generating resources that are bulk electric system resources pursuant to the generating resources included in inclusion I2 connected to a radial line operated at 100 kV above.[123]

Comments

130. NERC confirms that exclusion E1 does not apply to nor is it determinative of whether any generation is included or excluded from the bulk electric system. NERC states that, whether or not generation is included in the bulk electric system is determined by inclusions I2 through I4 and exclusion E2. Other commenters, including EEI, SoCal Edison, TAPS, Hydro One, and Alameda, also state that exclusion E1 does not apply to generating resources. Southern Companies suggest that the use of the term ''includes'' in subparts (b) and (c) could lead to some ambiguity because the implication is that a radial system includes generating resources. Southern Companies suggests that, the word ''serves'' should replace the word ''include'' to better reflect the intent of the provision.

131. PSEG Companies state there is confusion created by the fact that generators included in one provision of the definition (inclusion I2) are excluded under others (exclusions E1 through E3). According to PSEG Companies, a generator cannot be included under one provision of the bulk electric system definition and excluded under another provision and that this issue requires clarification and, once clarified, the bulk electric system definition needs to be modified accordingly.[124]

132. SmartSenseCom states that in the event of a conflict between an inclusion and exclusion, ''there should exist a presumption that the [e]lement be considered included, absent an [e]xception'' and asks that the Commission direct NERC to include a provision that states this presumption.[125]

Commission Determination

133. The Commission finds that the radial system exclusion only applies to ''transmission Elements'' and does not apply to nor is it determinative of whether any generation is included or excluded from the bulk electric system. This understanding is consistent with NERC's defined terms, and consistent with the comment of NERC and other commenters. Further, in response to Southern Companies, AEP and PSEG Companies, we believe that the language of exclusion E1 is sufficiently clear that it does not exclude generation facilities that are otherwise included as part of the bulk electric system pursuant to inclusion I2. Thus, we will not direct NERC to modify exclusion E1 to state this more explicitly. We agree with SmartSenseCom that exclusion E1 should not lead to conflicting results when applying inclusion I2, but we decline to direct NERC to include a provision that specifically states this presumption.

b. Definition of ''Radial Systems,'' Figure 1 and Condition (a) Radials Only Serving Load

NOPR Proposal

134. Exclusion E1 defines the term ''radial systems'' as ''a group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher.'' In the NOPR, the Commission requested comment on how NERC's proposal would be applied in the three scenarios. Figure 1 in the NOPR depicted facilities configurations in which all of the 230 kV and 69 kV transmission elements emanate from a single point of connection of 100 kV or higher. The Commission requested comment on whether each of the radial systems shown in figure 1, the 230 kV elements above each transformer to the point of connection to each 230 kV line, respectively, are excluded from the bulk electric system pursuant to exclusion E1.

[118] NERC BES Petition at 18.

[119] NOPR, 139 FERC ¶ 61,247 at P 76.

[120] *Id.*

[121] NOPR, 139 FERC ¶ 61,247 at P 77.

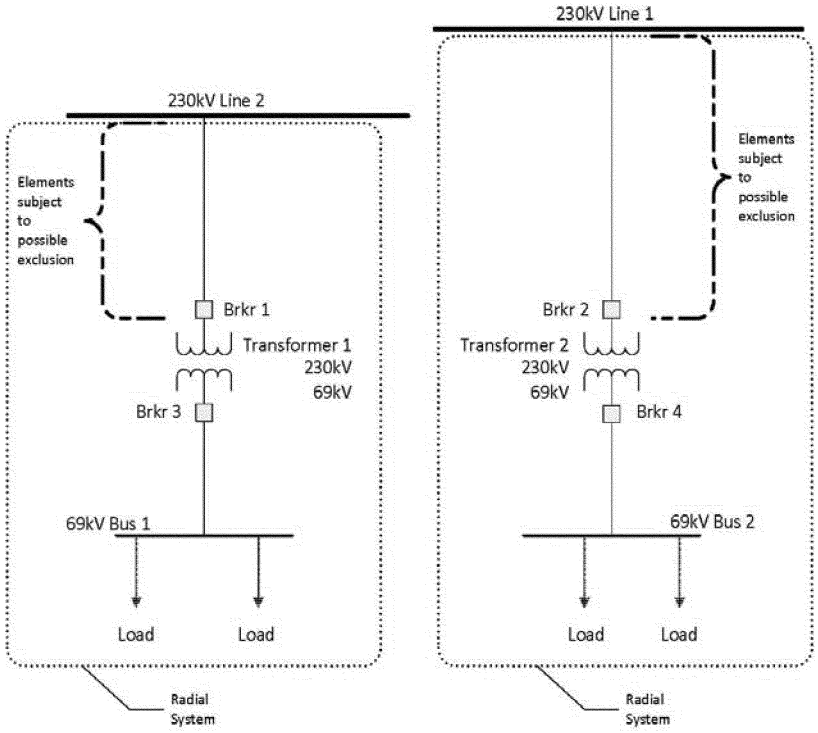
[122] ''Element'' is defined in the NERC Glossary as ''[a]ny electrical device with terminals that may be connected to other electrical devices *such as a generator,* transformer, circuit breaker, bus section, or transmission line. An element may be comprised of one or more components.'' (emphasis added).

[123] *See* NOPR, 139 FERC ¶ 61,247 at P 77 and n.100 (citing NERC BES Petition, Exh. D, Consideration of Comments Report, at 223 (''Exclusion E1 is an exclusion for the contiguous transmission Elements connected at or above 100 kV.'')).

[124] PSEG Comments at 11–13.

[125] SmartSenseCom Comments at 13.

Figure 1
Two Radial Systems Eligible for Exclusion E1



Comments

135. NERC and other commenters state that both radial systems depicted in figure 1 would be subject to exclusion E1(a) because they each only serve load.[126] ELCON agrees with NERC adding that these types of radial systems pose no reliability risk to the interconnected transmission network if the system is lost due to a fault condition. Similarly, SoCal Edison states that the figure 1 facilities would either be excluded or not part of the bulk electric system. SoCal Edison asserts that, because transformers 1 and 2 each have secondary voltages that are less than 100 kV, they do not meet the inclusion I1 requirements and, thus, are not included in the bulk electric system. In other words, SoCal Edison believes exclusion E1 should exclude all radial facilities that are greater than 100 kV up to the point where ''the system is no longer radial, as indicated in figure 1 by the brackets where the 230 kV lines meet [lines 1 and 2].'' [127] APPA believes that all the scenarios described by the Commission could create reliability concerns ''if taken in isolation and operated in a certain matter'' and believes that the exception process can capture configurations that pose a significant risk to the reliable operation of the interconnected transmission network. Idaho Power maintains that it is inappropriate to apply exclusion E1 for 230 kV elements in the scenarios if the breakers are part of the protection scheme for a three terminal 230 kV line. Idaho Power adds that if either breaker only opens for transformer protection, the exclusion would be applicable.

136. Anaheim agrees that the radials shown in figure 1 should be excluded and requests clarification that the associated bus work and protection system equipment installed on those radial lines are also excluded. Anaheim advocates that the exclusion should also apply to protection system equipment on the excluded facilities that provide backup protection for devices that are part of the bulk electric system, i.e. lines 1 and 2 in figure 1.

137. BPA is concerned about excluding the 230 kV lines without review by a planning authority or transmission operator because the fault magnitude on voltages above 200 kV are much higher than below 200 kV lines. BPA states that since actual power flows on systems above 200 kV are much higher, these systems have a higher risk for serious impacts on the interconnected transmission system.

138. Holland supports the exclusion of radial systems but contends that the phrase ''emanates from a single point of connection'' could be too narrowly interpreted. According to Holland, multiple buses within a single substation could be viewed as multiple points of connections. Holland believes that an entity whose connection emanates from a single substation should not be denied an exclusion solely because it connects to multiple buses at the single substation.

139. Consumers argues that the exclusion of 100 kV radial systems that only serve load exceeds the Commission's jurisdiction and the Seven Factor Test.[128] Consumers believes that exclusion E1(a) would exclude radials that only serve load and this phrase expands the Commission's jurisdiction by classifying 100 kV distribution systems that primarily serve load but could also have a secondary purpose. Consumers also argues that this exclusion is inconsistent with the Seven Factor Test which examines

[126] *E.g.,* Southern Companies, AEP, National Grid, TAPS, ISO New England, Barrick, IUU, and WPPC.

[127] SoCal Edison Comments at 5.

[128] Consumers cites to *Detroit Edison Co.* v. *FERC,* 334 F.3d 48 (D.C. Cir 2003) as support for its belief that the Commission cannot rewrite the FPA to exclude only facilities used exclusively in local distribution. *See* Consumers comments at 7.

whether local distribution facilities are ''primarily'' radial in character. Further, Consumers argues that the Commission should not adopt a rule that exceeds its jurisdiction or constitutes a collateral attack on the local distribution findings of the Seven Factor Test.

Commission Determination

140. The Commission agrees with NERC that the radial systems shown in figure 1 meet the definition of ''radial system'' in exclusion E1. This configuration would result in the 230 kV lines between transformers 1 and 2 to the two 230 kV lines, respectfully, being excluded from the bulk electric system. The Commission agrees with NERC and other commenters that both radial systems depicted in figure 1 would be subject to exclusion E1 condition (a) because they each only serve load.

141. Idaho Power, BPA and Anaheim raise concerns about protection system equipment and design, needed for analysis by the planning authority and transmission operator, while APPA states that all scenarios described by the Commission could create reliability concerns. Regarding these concerns, the Commission agrees with APPA that the exception process can be used to add to the bulk electric system specific configurations that pose a significant risk to the operation of the interconnected transmission network.

142. The Commission disagrees with Holland's interpretation that the phrase ''emanates from a single point of connection'' can refer to multiple buses. The phrase refers to a single point, and if there is more than one point of connection the configuration does not meet the radial system definition as stated in exclusion E1. NERC, in the standard development process, emphasized that radial systems cannot have multiple connections at 100 kV or higher. Networks that have multiple connections at 100 kV or higher may qualify under exclusion E3.[129]

143. The Commission also disagrees with Consumers that the exclusion of 100 kV radial systems that only serve load expands the Commission's jurisdiction by classifying 100 kV distribution systems that primarily serve load, but may also have a secondary purpose, as transmission. First, exclusion E1 condition (a) reflects the language contained in the current bulk electric system definition and therefore, is itself not an expansion from the existing definition. In addition, as NERC stated, application of the definition is a three-step process. In step 1, the core definition is used to establish the bright line of 100 kV, the overall demarcation point between bulk electric system and non-bulk electric system elements. Step 2, applying the specific inclusions, provides additional clarification for the purposes of identifying specific elements that are included in the bulk electric system. Step 3 is to evaluate specific situations for potential exclusion from the bulk electric system. Further, an entity may seek a case-specific exception if it believes that facilities with radial qualities that are not excluded pursuant to exclusion E1 or petition the Commission when seeking a determination whether a facility, otherwise included in the bulk electric system, is used in local distribution. Thus, merely applying the definition, and the inclusions or exclusions is not necessarily the end of the inquiry regarding whether an element is part of the bulk electric system.

c. Figure 2 and Condition (a) Radials Serving Only Load

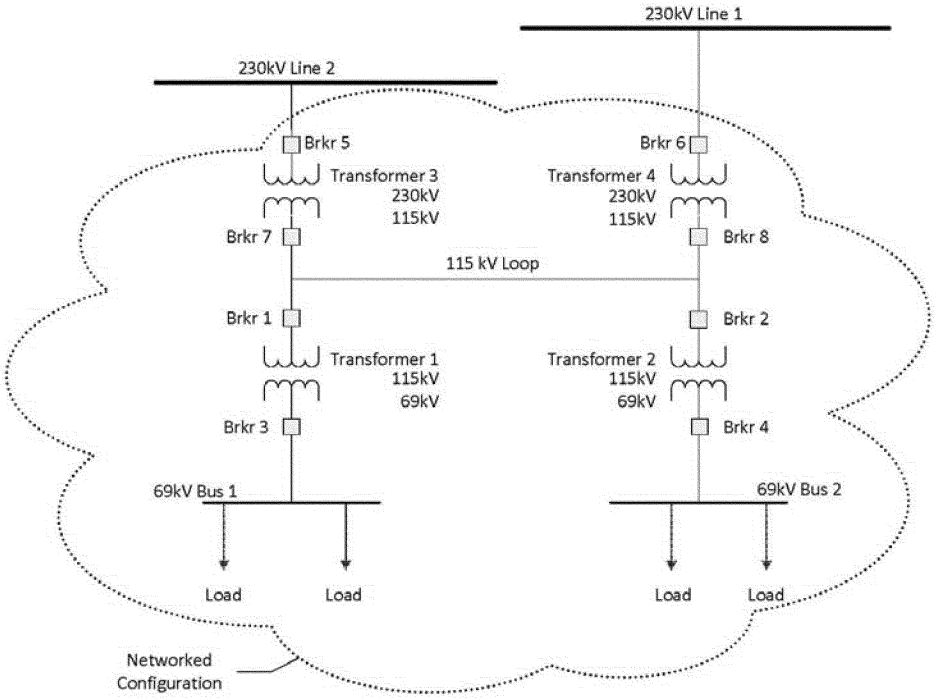
NOPR Proposal

144. In the NOPR, the Commission requested comment on the scenario shown in figure 2 which shows a 115 kV loop, with the configuration emanating from two points of connection of 100 kV or higher. Specifically, the Commission requested comment on whether ''the 115 kV and 230 kV elements above Transformers 1 and 2 to the points of connection to the two 230 kV lines would be excluded from the bulk electric system pursuant to exclusion E1.'' [130] The Commission asked for comment on whether it is more appropriate to analyze figure 2 pursuant to the ''local network'' exclusion E3 and, if so, what if any elements operated at or above 100 kV would be excluded pursuant to exclusion E3.

[129] NERC BES Petition, Exhibit E, ''Complete Development Record of the Proposed Revised Definition of ''Bulk Electric System,'' Consideration of Comments on Initial Ballot—Definition of BES,'' at 259.

[130] NOPR, 139 FERC ¶ 61,247 at P 80.

Figure 2
Networked Configuration w/115 kV Loop



Comments

145. NERC states that figure 2 is a non-radial loop on the 115 kV system. According to NERC, the 115 kV elements above transformers 1 and 2 to the point of interconnection with lines 1 and 2 would not be eligible for exclusion E1 because they do not emanate from a single point of connection. NERC also states that it would be appropriate to evaluate figure 2 under exclusion E3 as a potential local network.[131] For such a candidate local network to qualify for exclusion, NERC states that additional technical analysis is needed to determine if all the exclusion E3 criteria are satisfied.[132] NERC asserts that without such a technical analysis, the 115 kV elements above transformers 1 and 2 should be considered part of the bulk electric system.

146. Likewise, Idaho Power, ITC Companies, and National Grid contend that the figure 2 configuration should be included in the bulk electric system. Southern Companies believe exclusion E1 may apply from the breakers down and that the configuration may belong to exclusion E3. AEP assumes that each of the facilities below the 115 kV loop shown in figure 2, and including breaker 1 and breaker 2, are radial and excluded pursuant to exclusion E1. According to AEP, the facilities above breakers 1 and 2 may be excluded pursuant to exclusion E3 depending on the circumstances.[133]

147. Valero states that the figure 2 configuration is very similar to common facilities configurations employed in many industrial facilities involving the interconnection of the industrial facility to the utility through two high voltage feeder lines that originate at different utility owned and operated substations. Valero requests that the Commission include in the final rule an additional exclusion that would ''categorically exclude from the [bulk electric system] any on-site high voltage switchyard facilities (less than 300 kV) owned by the industrial end-user where the predominant function of the facilities is to distribute electricity in an inward direction to the end-user's load.'' [134] WPPC argues that figure 2 shows both radial and network systems and that the system from the 115 kV loop upwards would be assessed under exclusion E3 and below that point would be assessed by exclusion E1.

Commission Determination

148. The Commission affirms NERC's statement that figure 2 is a non-radial loop and thus would not be eligible for exclusion E1 because it does not emanate from a single point of connection. The Commission agrees with commenters that the elements below the 115 kV loop should be assessed as two separate radial systems pursuant to exclusion E1. The remaining elements (the 115 kV loop, transformers 3 and 4 and the 230 kV tie lines above the transformers to the two 230 lines 1 and 2) should be assessed pursuant to exclusion E3 and if the configuration meets the criteria of exclusion E3, the elements could be excluded.

149. Regarding Valero's request for an additional exclusion if equipment owners' configurations cannot meet the exclusion E3 criteria, Valero can request that the elements be excluded through the exception process. The exception process allows equipment owners to request an exception regardless of the owner's registration status.

[131] *See also* Comments of NESCOE, BPA, Idaho Power, ITC Companies, and National Grid.

[132] *E.g.,* ISO New England Comments at 10, MISO Comments at 7.

[133] AEP Comments at 7.

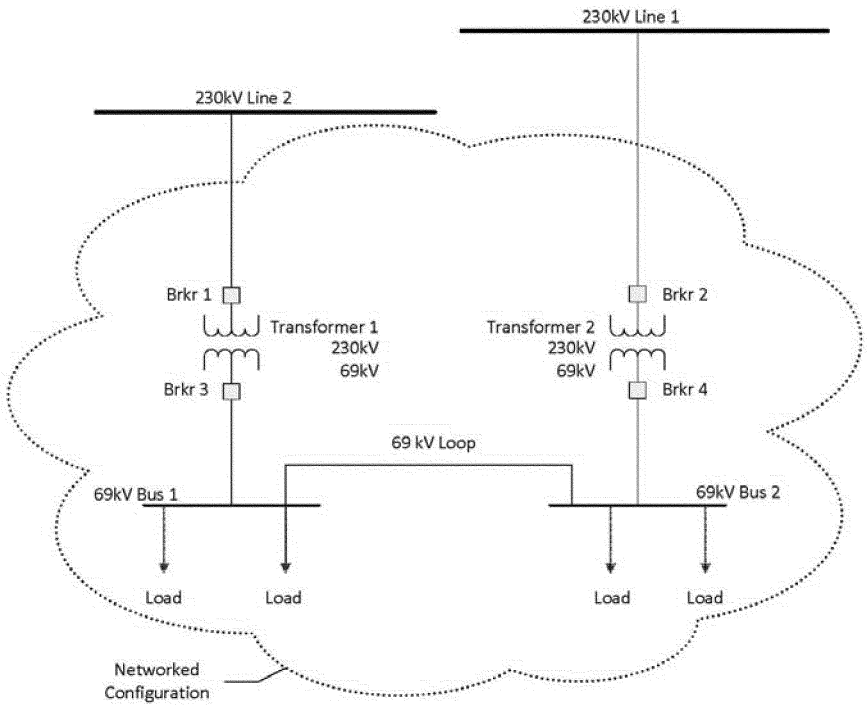
[134] Valero Comments at 8.

d. Figure 3 and Condition (a) Radials Only Serving Load

NOPR Proposal

150. In the NOPR, the Commission agreed with NERC's proposal that radial systems only serving load and emanating from a single point of connection of 100 kV or higher should be excluded from the bulk electric system. However, the Commission expressed concern ''that the exclusion could allow elements operating at 100 kV or higher in a configuration that emanates from two or more points of connection ''to be deemed ''radial'' even though the configuration remains contiguous through elements that are operated below 100 kV.'' [135] Figure 3 in the NOPR illustrated this concern, and the Commission asked for comment on how to evaluate the configuration relative to the radial system definition. The Commission also requested comment on the appropriateness of examining elements below 100 kV to determine if the configuration meets exclusion E1, i.e., whether figure 3 depicts ''a system emanating from two points of connection at 230 kV and, therefore, the 230 kV elements above the transformers to the points of connection to the two 230 kV lines would not be eligible for the exclusion E1 notwithstanding the connection below 100 kV.'' [136]

Figure 3
Networked Configuration w/69 kV Loop



Comments

151. NERC disagrees with the Commission's characterization of figure 3 in the NOPR. NERC states that figure 3 does not depict a configuration with two points of 100 kV or higher or a system emanating from two points of connection at 230 kV. According to NERC, except for lines 1 and 2, all the other elements depicted in figure 3 are excluded from the bulk electric system. NERC explains that the elements between line 1 and transformer 2 and from line 2 to transformer 1 are excluded by exclusion E1(a) because ''each separate set of [e]lements [described above] is contiguous and emanate from a single point of connection of 100 kV or higher.'' [137] NERC states that the elements below the 69 kV side of transformers 1 and 2 are excluded from the definition because they are less than 100 kV, and transformers 1 and 2 are excluded because they ''bridge voltages of 69 kV and 230 kV'' and therefore do not meet inclusion I1.

152. NERC further explains that the focus of the definition of bulk electric system is on looped or networked connections at or above 100 kV. According to NERC, connections operated below 100 kV, generally do not carry significant parallel flow due to the higher impedance of lower voltage facilities. If such facilities are necessary for the reliable operation of the interconnected transmission network, NERC states that the exception process can be used to include such facilities.

153. Exelon agrees with NERC and explains that it has many connections similar to the one shown in figure 3 and provides a specific example where a 138 kV substation is fed by two radially connected 138 kV lines which in turn are connected through 40 MVA transformers to a 12 kV bus section. Exelon states that in its example the 40 MVA transformers cross bus sections so that if one of the 138 kV lines is out of service, each side of the 12 kV bus retains service. Exelon believes that due to the high impedance of the transformers, little energy flows between the buses in Exelon's

[135] NOPR, 139 FERC ¶ 61,247 at P 81.

[136] *Id.*

[137] NERC Comments at 19.

example.[138] Exelon states that owners and operators of these configurations would be required to go through the exception process.

154. Other commenters believe that the figure 3 configuration may not be eligible for exclusion E1. SoCal Edison explains that the 69 kV loop is not open and therefore is a parallel path to the 230 kV system. BPA, Alameda and WREA do not view the figure 3 system as eligible for exclusion E1 because the system is networked. Idaho Power states that the 230 kV lines would be included only if there is a protection system in place for the 230 kV lines. According to Idaho Power, the elements above the transformers in figure 3 would not be excluded from the bulk electric system. Idaho Power believes this configuration should be evaluated under exclusion E3.

Commission Determination

155. The Commission finds figure 3, which is identical to figure 5, is a networked configuration through a 69 kV loop and does not qualify for exclusion E1. The Commission also finds that, because the load in figure 3 can be served by either 230 kV line, it does not depict a ''radial system.'' However, the facilities below 100 kV may or may not be necessary for the operation of the interconnected transmission network, and this decision can be made case-by-case in the exception process. In other words, such facilities below 100 kV depicted in figure 3 would be excluded under the general threshold of the core definition unless found on a case-specific basis as necessary for the reliable operation of the interconnected transmission network. Thus, the Commission, while disagreeing with NERC's interpretation, does not propose to include the below 100 kV elements in figure 3 in the bulk electric system, unless determined otherwise in the exception process. Further, as we discuss below in connection with exclusion E3 and figure 5, while we find that the configuration shown in figures 3 and 5 would not be eligible for exclusion E1, we believe that such configurations should be eligible for exclusion E3 for local networks. However, exclusion E3 as written requires the candidate local network to be contiguous and above 100 kV, thus, the exclusion E3 language as written does not allow for figures 3 and 5 to be eligible for the local network exclusion because they are not contiguous *and* include facilities that are not above 100 kV. Therefore, we direct NERC to modify exclusion E3 to remove the 100 kV minimum operating voltage in the local network definition. This modification will enable configurations similar to figures 3 and 5 to be assessed for the local network exclusion. The Commission believes this modification, together with satisfying the criteria outlined in exclusion E3, will appropriately exclude local network configurations that are not necessary to the reliable operation of the interconnected transmission network.[139]

e. Condition (b)—Radials With Limited Generation and Condition (c)—Radials With Limited Generation and Load

NOPR Proposal

156. Exclusion E1, condition (b) describes generation connected to a radial system with no load, and condition (c) describes generation connected to a radial system with generation and load. In its petition, NERC stated that conditions (b) and (c) are ''intended to address the circumstances of small utilities (including municipal utilities and cooperatives).'' [140]

157. In the NOPR, the Commission requested comment regarding the specific circumstances that conditions (b) and (c) are intended to address. In addition, the Commission observed that the power generated on these radial systems would be ''delivered or injected to the bulk electric system and transported to other markets.'' [141] The Commission noted that it appeared that a line 100 kV or above connected to a generator with a capacity 75 MVA or below would not be included in the bulk electric system. The Commission requested comment on the appropriateness of excluding such radial facilities.

Comments

158. With respect to applicability to small utilities, NERC states that exclusion E1, conditions (b) and (c) are not intended solely for such entities. According to NERC, these conditions are intended to exclude radial systems that have limited benefit to the reliability of the interconnected transmission network. NERC states that the configurations described in exclusion E1(b) and (c) ''pose no reliability risk to the interconnected transmission network when the radial system is lost due to a failure or fault condition.'' [142]

159. NERC states that the basis for exclusion E1(b) ''is dependent on a single point of failure causing the radial system to separate'' from the bulk electric system, which will result in a limited loss of generation without an adverse reliability impact to the interconnected transmission network.'' [143] NERC explains that exclusion E1(c) addresses the installation of limited amounts of generation that are installed within a radial system and are intended to serve local load within that radial system.

160. In response to the Commission's question about the delivery or injection of power from the radial systems described in these exclusions, NERC states that because of the limitation of the generation in exclusion E1(b) and (c), the power generated on the radial system would be delivered to the embedded load within the radial system and injected into the bulk electric system in very limited quantities. NERC argues that subjecting the elements associated with this type of radial system to all the Reliability Standards has limited benefit to the reliability of the interconnected transmission network. NERC believes it is more appropriate to identify these elements through the ''the applicability in specific standards where a reliability benefit can be identified.'' [144]

161. A number of commenters agree with NERC.[145] Idaho Power states that the exclusion is appropriate if the generation connected to the radials is not relied on to meet reliability performance criteria on bulk electric system elements. Idaho Power indicates that it follows the WECC guidelines and

[138] Exelon Comments at 6. TAPS states that impedance is inversely proportional to the square of the voltage of the network and power flow is inversely proportional to the impedance. According to TAPS, impedance factors are very significant in limiting the amount of parallel path flows. TAPS Comments at 7.

[139] NERC and Exelon contend that looped or networked connections operating below 100 kV generally do not carry significant parallel flow because of higher impedance characteristics and thus need not be evaluated as part of a radial system. However, the Commission believes that excluding these configurations solely on the level of impedance does not consider other factors, including voltage, the system configuration, type of conductors, length of conductors, and proximity of the networked system in the interconnected transmission network. Regardless of our disagreement with NERC and Exelon regarding the consideration of impedance, however, as we discuss above, configurations such as those described by Exelon may be assessed for exclusion through exclusion E3, which apply criteria to determine whether such facilities are necessary for reliable operation of the interconnected transmission network. Accordingly, the inclusion or exclusion of such facilities is better determined through application of exclusion E3, or case-by-case in the exception process.

[140] NERC BES Petition at 19.

[141] NOPR, 139 FERC ¶ 61,247 at P 83.

[142] NERC Comments at 20.

[143] NERC Comments at 20.

[144] NERC Comments at 21–22.

[145] *E.g.* Idaho Power, National Grid, AEP, Hydro One, ISO New England, and BPA.

thresholds (10 MVA individually, 20 MVA aggregate) to determine the appropriateness of excluding the power from components from radial connected generation. Alameda contends that the radial systems in these exclusions have only a minor impact on the bulk electric system and that system planning and operation assessments must provide for reliable operation under N–1 contingency operations including loss of the exclusion E1(b) and (c) configurations. WPPC states that the generator thresholds in these conditions are a logical cut-off to separate radial systems with generation that is not likely to be meaningful to operation of the bulk electric system.

162. Anaheim urges the Commission to clarify that the presence of generation resources connected at voltages below 100 kV ''does not invalidate the availability of the radial exclusion for lines that are operated at greater than 100 kV unless the generating unit is actually connected to the higher voltage line.'' [146] PSEG Companies state there is confusion regarding the generation limits in exclusion E1(b) and (c) and in exclusion E3. They contend that it is not clear if the generation limit only applies to generators connected at 100 kV or higher. PSEG Companies also ask for clarification regarding the definition of the phrase ''non-retail generation.'' [147]

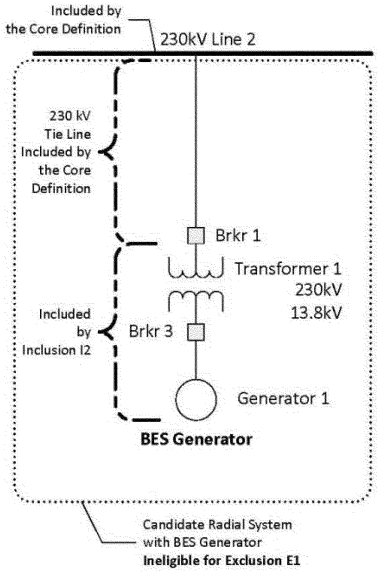
163. AEP does not believe that the three conditions of exclusion E1 would remove the generation connected to the radial system from the bulk electric system definition but states that the conditions may have the consequence of removing the radial line itself from the definition in error. According to AEP, this would be in cases of a 25 MVA generator (meeting I2 properties) but less than 75 MVA aggregate. AEP suggests that the conditions in (b) and (c) be revised to reference non-bulk electric system generation.[148]

Commission Determination

164. We approve exclusion E1 conditions (b) and (c). However, we direct NERC to implement exclusion E1 so that the exclusions for radial systems do not apply to tie-lines for bulk electric system generators identified in inclusion I2. If the generator is necessary for the operation of the interconnected transmission network, the Commission believes that it is generally appropriate to have the radial tie-line operating at or above 100 kV that delivers the generation to the bulk electric system included as well.

165. In general, we believe that it is appropriate to have the bulk electric system contiguous, without facilities or elements ''stranded'' or ''cut-off'' from the remainder of the bulk electric system as shown in the figure below. However, the contiguous quality of the bulk electric system is lost in exclusion E1, condition (b), because it removes from the bulk electric system the 100 kV or greater generator tie-line that connects the bulk electric system generator to the interconnected transmission network. Such tie-lines should be subject to appropriate Reliability Standards.

Radial System with BES Generation



166. NERC explains that the exclusion of radial systems pursuant to conditions (b) and (c) is based on the premise that a single point of failure causing the radial system to separate from the bulk electric system, resulting in the loss of a limited amount of generation will not have an adverse reliability impact. However, there are other reliability concerns that NERC does not address. For example, both the radial line emanating from a generator and the portion of the bulk electric system to which it is connected have protective relays that require coordination to prevent the lines from tripping. The generator needs to coordinate the protective relays with transmission operators, otherwise there may not be adequate information to prevent a fault on the radial line from causing cascading outages on the bulk electric system. The Commission also notes that the phrase ''adverse reliability impact,'' which is defined in the NERC Glossary of Terms as ''the impact of an event that results in frequency-related instability; unplanned tripping of load or generation; or uncontrolled separation or cascading outages that affects a

[146] Anaheim Comments at 7.

[147] PSEG Comments at 3.

[148] AEP Comments at 5.

widespread area of the Interconnection,'' is an extreme result that should not occur from the loss of a single tie-line for any sized generator.[149] A single contingency that results in an ''adverse reliability impact'' violates planning and operating criteria in Commission approved Reliability Standards.[150] NERC also does not consider issues, such as the issue raised by Idaho Power, that the exclusion is appropriate if the generation connected to the radial system is not relied on to meet reliability performance criteria.

167. Some commenters suggest there is a conflict between the inclusion I2 and exclusion E1 because they believe that the 100 kV or greater tie-line and the generator should remain in the bulk electric system. We agree that exclusion E1 as written does not prevent the radial tie-line operating at or above 100 kV from the high side of the step-up transformer to the bulk electric system from being excluded while the generator and associated step-up transformer(s) remain included. Inclusion I2 depends on the status of the tie-line based on the core definition's 100 kV threshold to determine if a generator and its step-up transformers are part of the bulk electric system. Thus, this inclusion results in most bulk electric system generators having a contiguous connection to the interconnected transmission network. As noted above, we believe that it is generally appropriate to have the bulk electric system contiguous. Therefore, the Commission directs NERC to implement exclusion E1 so that the exclusion for radial systems does not apply to tie-lines for bulk electric system generators identified in inclusion I2. This directive provides consistent application of the entire definition by not allowing exclusion E1 to override the qualifying tie-lines pursuant to inclusion I2.

168. The Commission also rejects NERC's argument that subjecting the elements associated with this type of radial system to all the Reliability Standards has a limited benefit to the reliability of the interconnected transmission network. In cases of radial tie-lines for bulk electric system generators where the generator owner also owns the tie-line, NERC has exercised discretion, on a case-by-case basis, in determining which entities require registration as transmission owners/operators and identified sub-sets of applicable reliability standard requirements for these entities.[151] In other situations, such generator tie-lines may appropriately be considered an extension of the generation facility, which would not subject significant additional compliance obligations on the generator owner and/or operator.

169. In response to the question raised by PSEG Companies about whether the generation limit specified in exclusion E1(b) and (c) only applies to generators connected at 100 kV or higher, we note that exclusions E1(b) and (c) do not specify the generation connected to the radial system or local network to any voltage.

f. Normally Open Switches

NOPR Proposal

170. NERC included a note accompanying the description of exclusion E1 stating that ''[a] normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.'' NERC drafted this note to address a common network configuration in which two separate sets of facilities that, each standing alone, would be recognized as radial systems but are connected by a switch that is set to the open position for reliability purposes. In its petition, NERC explained that these switches are installed by entities to provide greater reliability to their end-use customers. NERC also explained that ''a normally open switch'' will be identified in documents such as prints or one-line diagrams and that ''[t]he concept and usage of the 'normally open switch' in such configuration is well understood in the electric utility industry.'' [152]

171. In the NOPR, the Commission requested comment on NERC's characterization and whether the phrase ''normally open'' is subject to interpretation or misunderstanding, or whether a ''normally open'' configuration is potentially difficult to oversee. The Commission also requested comment on the need of transmission operators or other functional entities to study the system impacts of the closing of a ''normally open'' switch, or to take other steps to ensure awareness of the impacts of the loop that is created by the closing of the switch if the closed loop is not included as part of the bulk electric system.

Comments

172. NERC explains that the term ''normally opened'' is well understood and commonly used in industry for a variety of reasons including public and personnel safety. NERC also explains that the purpose of recognizing a normally open switch in the definition is to preserve the bright-line so that the facilities can be characterized as they are planned to be operated which avoids the need to constantly reclassify elements to adjust to the changing operating conditions that occur on the system. NERC believes that a normally open switch is not difficult to oversee.

173. Nearly all commenters that addressed this issue agree with NERC's positions. NRECA highlights NERC's explanation that the configuration is so common that to write the definition to include radial systems connected by a normally open switch, with the caveat that entities can request an exception, would result in a flood of exception requests. Steel Manufacturers Association points out that such a switch can make a secondary connection point available to a large industrial load when needed to improve service reliability and continuity. Consumers Energy states that such switches would only be closed during emergency conditions and an entity in that instance would follow contingency plans and ensure that a proper study is performed on a normally open switch that is closed due to the emergency to avoid related equipment failures. TAPS agrees with NERC and notes that such switches are marked as normally open on one line diagrams.

174. PSEG Companies state that in effect the switch is irrelevant because if the normally open switch is open the systems are radial and therefore excluded and when the switch is closed the radial systems are also excluded for the same reasons figure 3 facilities should be excluded. Alameda submits it documents a normally open switch in operational diagrams and SCADA applications and its use is coordinated in advance with its transmission operator. Alameda also states that the system impacts of closing a normally open switch do not need to be required to be studied since it is the operational experience and documentation of such switch that is most important.

175. G&T Cooperatives state that some operational studies would be useful if there is an upcoming operational decision to close the normally open switch that could parallel the bulk electric system. However, G&T Cooperatives explain that the study would be used to ensure that the system can operate with the switch closed without inadvertently tripping one of the source breakers. G&T Cooperatives explain that a normally open switch

[149] *See* the NERC Glossary of Terms at *http://www.nerc.com/files/Glossary_of_Terms.pdf.*

[150] *See, e.g.,* Reliability Standards, TPL–002–0b and IRO–004–2.

[151] *E.g., New Harquahala Generating Company, LLC,* 123 FERC ¶ 61,173, *order on clarification,* 123 FERC ¶ 61,311 (2008).

[152] NERC BES Petition at 19.

would not need to be modeled into any real-time model or contingency analysis, nor would it require the interconnecting radial systems to be incorporated into the bulk electric system, where such conditions are managed through quick changes to the equivalence bus loads or generation capacities. Similarly, TAPS states that closing a normally open switch does not have an impact on the system that needs to be studied because it is only close to change a down stream path on a temporary basis and does not create a loop.

Commission Determination

176. Upon consideration of comments, we are persuaded that the concept of a normally open switch is well understood, common and not difficult to oversee. We accept NERC's explanation that recognizing a normally open switch in the definition will preserve the bright-line so that the facilities can be characterized as they are planned to be operated and avoids the need to constantly reclassify elements to adjust to the changing operating conditions that occur on the system.

177. With regard to the Commission's question concerning the need to study the system impacts of the closing of a ''normally open'' switch, at this time we will not require them to be studied. We are persuaded that the operational experience and documentation of such switch is most important and, thus, we decline to require additional studies.

7. Exclusion E2 (Behind the Meter Generation)

NOPR Proposal

178. NERC stated in its petition that the wording of exclusion E2 is extracted from the Statement of Compliance Registry Criteria.[153] In the NOPR, the Commission stated that the exclusion of ''[a] generating unit or multiple generating units on the customer's side of the retail meter * * *'' was an appropriate exclusion that provides additional clarity and granularity to the definition of bulk electric system.[154] While the Commission did not ask specific questions about exclusion E2, several commenters expressed support for the inclusion, while others stated concerns with the exclusion.

Comments

179. NERC and EEI agree with the Commission that the exclusion provides additional clarity. ELCON notes that such configurations are commonly employed by industrial users of electricity, and they do not affect in any significant way the bulk power system. On the other hand, ISO New England believes that exclusion E2 should be eliminated because it is contrary to the reliability of the bulk electric system. According to ISO New England, a 400 MW generator which is behind the meter with a 400 MW load could be excluded even though it could have a significant impact on the performance of the bulk electric system. ISO New England states that the owner of the generator in this example would not need to provide generator stability modeling information nor abide by the many normally applicable Reliability Standards. MISO believes that the exclusion could encourage entities to move generation capacity behind the meter which could adversely impact the bulk electric system.

180. PSEG Companies state that exclusion E2 could exclude generation included in inclusion I2. For example, PSEG Companies contends that, if a single 200 MVA behind-the-meter generator is connected to the bulk electric system at 100 kV or higher, the net capacity provided to the bulk electric system does not exceed 75 MVA and the generator has standby, backup, and maintenance services, under exclusion E2 the generator would be excluded from the bulk electric system, but it would be included pursuant to inclusion I2.[155]

181. Other commenters, such as Barrick and the IUU, believe additional clarification is needed for the terms ''retail meter'' and ''net capacity.'' Specifically, they question what the capacity is ''net'' of or whether it means the sum of flows at all points of connection to the bulk electric system. They also question whether ''net'' means the capacity of a generator that is made available for use by someone other than an owner of the generator or capacity less parasitic load only.

182. Barrick and IUU believe there is more than one use for the term ''retail meter,'' and it is not clear whether all situations are covered by the use in the proposed exclusion E2. Barrick proposes that the term ''retail meter'' should include an end-user's meter at an end-user's generator when that meter is used to measure the end-user's generation for consumption.

Commission Determination

183. We find that exclusion E2 provides additional clarity to the definition of bulk electric system, and we disagree that exclusion E2 is contrary to the reliability of the bulk electric system. We agree with ELCON that such configurations are commonly employed by industrial users of electricity. Indeed, this exclusion is similar to the exclusion for such facilities in NERC's Registry Criteria.[156] With regard to ISO New England's and PSEG Companies specific examples, to the extent such scenario exists, they may be eligible for inclusion or exclusion through use of the exception process.

184. We decline to define the additional terms cited by commenters, such as Barrick and the IUU, who believe additional clarification is needed for the terms ''retail meter'' and ''net capacity.'' These terms are in common use in the electric power industry. Therefore, we do not see a need to adopt a formal definition.

8. Exclusion E3 (Local Networks)

NOPR Proposal

185. NERC's proposed exclusion E3 defines the term ''local networks'' as:

> A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk-power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk-power transfer across the interconnected system.

Exclusion E3 also identifies three criteria that must be satisfied for the exclusion to apply: (a) Limit on connected generation to 75 MVA aggregate capacity of non-retail generation (gross nameplate rating); (b) power flows only into the local network and does not transfer through the local network; and (c) the local network is not part of a flowgate or transfer path.

186. In the NOPR, the Commission requested comment on: (1) Whether generation resources are excluded by this exclusion; (2) how the exclusion applies to a looped lower voltage system; (3) whether the 300 kV ceiling is appropriate for the application of the exclusion; and (4) whether the prohibition for generation produced inside a local network is not transporting power to other markets outside the local network applies in both normal and emergency operating conditions.[157] The Commission also sought further explanation regarding the design and technical justification of a local network. These issues are

[153] NERC BES Petition at 22.

[154] NOPR, 139 FERC ¶ 61,247 at P 88.

[155] PSEG Comments at 14.

[156] NERC Statement of Compliance Registry Criteria, section III.c.4.

[157] NOPR, 139 FERC ¶ 61,247 at P 89.

discussed in detail in the following sections.

a. Local Network Design and Technical Justification

NOPR Proposal

187. In the NOPR, the Commission requested explanation and comment on the statement in NERC's petition that ''neither will the local network's separation or retirement diminish the reliability of the interconnected electric transmission network.'' [158] In its petition, NERC stated that the design and operation of local networks is such that at the point of connection with the interconnected transmission network is similar to that of a radial facility, in particular that power always flows in the direction from the interconnected transmission network into the local network.[159] Further, according to NERC, ''[l]ocal networks provide local electrical distribution service and are not planned, designed or operated to benefit or support the balance of the interconnected transmission network.'' [160]

188. In the NOPR, the Commission observed that, while a radial facility emanates from one point of connection to the interconnected transmission network, a local network by definition has multiple points of connection to the interconnected transmission network. Thus, regarding a local network, a contingency situation may arise where one of the multiple connections to the interconnected transmission network separates, while other local network connections maintain connectivity with the bulk electric system. Accordingly, the Commission requested comments to better understand how an entity with a candidate local network would analyze such contingencies to determine potential impacts to the reliable operation of the interconnected transmission network.

Comments

189. EEI, MISO and other commenters generally support exclusion E3.[161] With respect to the issue raised by the Commission regarding how an entity's local network separation will not diminish the reliability of the interconnected transmission network, NERC explains that the reliability of the interconnected transmission network is not impacted by the existence or absence of the local network. NERC maintains that excludable facilities under exclusion E3 will naturally satisfy this principle because the exclusion E3 conditions were crafted in such a way to ensure reliability is not adversely impacted by the disconnection of the local network. While specific analyses are not necessary to support exclusion of facilities under exclusion E3, NERC states that transmission operators or other functional entities need to be aware of the change of status of all devices on the system and the impact to the system from device changes. According to NERC, exclusion of a local network does not obviate the transmission operator or other functional entity from the responsibility to assess the system impact on any bulk electric system facility due to the separation of one local network connection while the remainder of the local network remains connected with the bulk electric system.[162]

190. TAPS agrees with NERC stating ''sophisticated engineering analysis should not be needed to determine the applicability of [i]nclusions and [e]xclusions.'' [163] Likewise, WREA agrees with NERC's assertion that the entity with a local network does not need to analyze local network contingencies since this analysis is already made by the transmission planner and transmission operator responsible for the bulk electric system facilities feeding the local network. Regarding the transmission planner responsibilities, WREA states the NERC Reliability Standard TPL–002 requires the transmission planner to study N–1 contingencies and prepare plans for reliable operation. WREA further explains that the transmission operator is required to plan to meet unscheduled changes in system configuration pursuant to Reliability Standard TOP–002, R6 and ''if there are non-[bulk electric system] facilities that are significant, that have not been properly represented in a [transmission operator's] models, [then] when the [transmission operator] performs its required model accuracy validation (TOP–002, R19), the [transmission operator] would observe a modeling inconsistency and would be able to take steps to correct the modeling error.'' [164]

191. AEP advocates for a baseline or cut-off point, which would be determined by the size (in MW) of the local network. Idaho Power believes that the statement means that total separation or loss of the local network elements does not cause a reliability performance impact on the remaining bulk electric system elements. Idaho Power explains that it would analyze such contingencies by evaluating overload levels and voltage performance impacts on the remaining bulk electric system elements as well as overload levels and voltage performance on the remaining local network elements.

192. Southern Companies state that such a contingency would be incorporated into planning studies regardless of whether the local network was part of the bulk electric system.[165] BPA believes that before a candidate local network is excluded, it must be evaluated by the impacted balancing authority, transmission operator and planning authority to ensure the integrity of the bulk grid is not compromised.[166]

Commission Determination

193. The Commission approves exclusion E3. The Commission accepts NERC's explanation about the statement that ''neither will the local network's separation or retirement diminish the reliability of the interconnected transmission network.'' The Commission also accepts NERC's comments relating to how an entity with a candidate local network would analyze such contingencies to determine potential impacts to the reliable operation of the interconnected transmission network. In particular, the Commission agrees that the exclusion of a local network does not obviate the transmission operator or other functional entity from the responsibility to assess the system impact of separating one local network connection while the remainder of the local network remains connected with the bulk electric system. We will not direct NERC to modify the provision as suggested by AEP and BPA. Rather, as NERC indicates, AEP and BPA may raise these suggestions with NERC in the Phase 2 development effort.

b. Figure 5, Contiguous Transmission Elements and the 100 kV Lower Limit

194. Exclusion E3 defines local networks as ''[a] group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk-power across the interconnected system.'' While the local network exclusion applies to contiguous transmission elements operating at a minimum of 100 kV, the Commission stated in the NOPR that it is unclear how the exclusion applies to a looped

[158] NERC BES Petition, Exhibit G at 2. (Local Network Technical Justification).

[159] NERC BES Petition at 22.

[160] *Id.*

[161] *E.g.,* NRECA, ELCON, BPA, and G&T Cooperatives.

[162] NERC Comments at 26.

[163] TAPS Comments at 9.

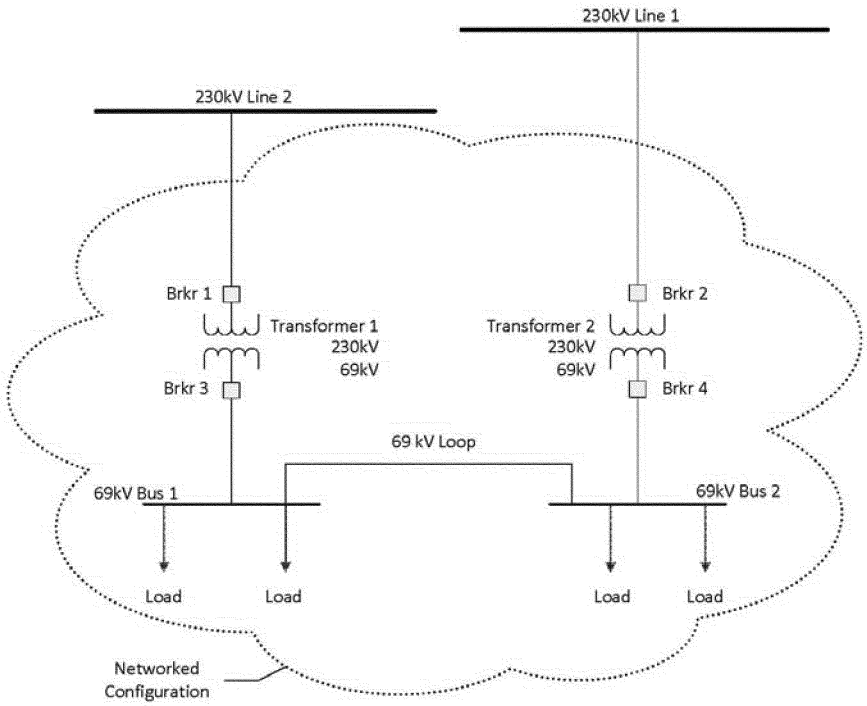
[164] WREA Comments at 8–9.

[165] Southern Companies Comments at 13.

[166] BPA Comments at 7–8.

lower voltage system. The Commission provided an example of its concern depicted in figure 5 in the NOPR which shows a 69 kV looped system emanating from two points of connection at 100 kV or higher.

Figure 5
Networked Configuration w/69 kV Loop



195. In the NOPR, the Commission stated that figure 5 depicts a group of elements that are contiguous through a 69 kV loop and requested comment whether the configuration in figure 5 qualifies as a local network and, in particular, whether the configuration satisfies the conditions that a local network be contiguous and operated at or above 100 kV.

Comments

196. NERC views figure 5 the same as figure 3—as a looped system below 100 kV—that is not considered under this exclusion because the elements below 100 kV are presumed to be not part of the bulk electric system.[167] NERC maintains that, if it is determined that the sub-100 kV looped system is necessary for the reliable operation of the interconnected transmission network, the exception process may be utilized to include the appropriate elements. NERC states that figure 5 depicts two separate and distinct groups of elements that each emanate from a single point of interconnection at 230 kV and only serve load. Accordingly, NERC states that 230 kV lines 1 and 2 are included in the bulk electric system with the only other included elements being the lines extending from lines 1 and 2. However, according to NERC, the elements between 230 kV line 1 and transformer 2 and between 230 kV line 2 and transformer 1 are each subject to exclusion E1(a) because each separate set of elements is contiguous and emanate from a single point of connection of 100 kV or higher. NERC asserts that the elements below the 69 kV side of transformers 1 and 2 are excluded because they are less than 100 kV. NERC explains that transformers 1 and 2 are excluded because they bridge voltages of 69 kV and 230 kV and therefore, inclusion I1 is not applicable because a transformer must have two terminals over 100 kV to qualify for inclusion I1. According to NERC, the definition should focus on looped or networked connections at 100 kV or greater because such connections, when operated below 100 kV, generally do not carry significant parallel flow because of the higher impedance associated with lower voltage facilities.[168]

197. Exelon states that the clear intent of the definition is that configurations such as shown in figure 5 are radial systems subject to exclusion E1 (radial systems). According to Exelon, had this not been the intent of exclusion E1, exclusion E3 would have allowed for a local network where the tie was below 100 kV to avoid a reliability gap. Exelon believes that the configuration shown in figure 5, which is identical to figure 3, does not qualify as a local network within the terms of exclusion E3 and supports NERC's view that figure 5 represents two radial systems that qualify under exclusion E1. Exelon cautions that, if the Commission determines that the systems depicted in figure 5 do not qualify under exclusion E1 because of the low voltage tie and does not qualify under exclusion E3 because the tie is at low voltage and not a 100 kV or above, such a decision would leave a gap under which a substantial number of facilities that are not part of the bulk electric system

[167] Figure 5 and figure 3 set forth in the NOPR are identical configurations.

[168] NERC Comments at 27–28.

would be classified as such. Exelon states that it would have to go through the separate exception process for dozens of substations, at great cost and for no useful purpose. Exelon states that the Commission should clarify that the configuration shown in figures 3 and 5 qualifies as a radial system and is excluded pursuant to exclusion E1.

198. Other commenters disagree with NERC's position. Idaho Power believes the network configuration with a 69 kV loop belongs to a local network category pursuant to exclusion E3 and that these types of networks should be studied to identify if there is any resulting voltage, overload, or stability violation that could propagate and impact the reliability of the system. Idaho Power believes that the 69 kV loop can tie the 230 kV systems together; therefore, outages in the 230 kV system could cause loop flow in the 69 kV system. According to Idaho Power, planning studies would have to be performed to determine the amount of loop flow and whether the loop flow could lead to outages on the 69 kV system, resulting in further impact to the bulk electric system.[169] WREA also notes figure 5 is the same as figure 3 and states that the 230 kV elements described in the figure would not qualify for the radial system exclusion E1 because the 230 kV elements are networked via facilities less than 100 kV. WREA concludes the elements above 100 kV in the figure might qualify for the local network exclusion and the below 100 kV facilities in this configuration are non-bulk electric system on the basis of the core definition unless the facilities are included via the exception process.[170] AEP believes that figure 5 could be considered for exclusion E3, provided that it is understood that at some point on the local network, the network could be of the size that would have a potential impact on the bulk electric system and would still need to meet the parameters of exclusion E3.[171]

Commission Determination

199. As discussed above, the Commission is directing a modification to exclusion E3 to better capture local networks like those depicted in figure 5. The Commission notes that Exelon believes that the configuration shown in figure 5, which is identical to figure 3, does not qualify as a local network within the terms of exclusion E3. While figures 3 and 5 are a networked configuration through a 69 kV loop, they do not qualify for the local network exclusion because exclusion E3 defines local networks as ''[a] group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk-power across the interconnected system.'' The configuration in figure 5 includes elements that are below 100 kV, and does not have contiguous elements operating at or above 100 kV but less than 300 kV. As noted above, while the Commission finds that these configurations should not be eligible for exclusion E1, we believe that they should be eligible for the local network exclusion. Therefore, we direct NERC to modify exclusion E3 to remove the 100 kV minimum operating voltage in the local network definition. Within 30 days of the effective date of this Final Rule, we direct NERC to submit a schedule outlining how and when it will make the modification to the definition.

c. 300 kV Cap

NOPR Proposal

200. NERC explained the selection of a 300 kV cap for the applicability of an exclusion for a local network was based upon recent NERC standards development work in Project 2006–02 ''Assess Transmission Future Needs and Develop Transmission Plans'' which sets a voltage level of 300 kV to differentiate extra high voltage (EHV) facilities from high voltage facilities acting as a threshold to distinguish between expected system performance criteria.[172] In the NOPR, the Commission noted that NERC provided an example of the electrical interaction between a typical local network and the bulk electric system which depicted a local network operating at 115 kV. However, the Commission observed that NERC did not provide examples of a local network operating within the 200 to 300 kV range. The Commission expressed concern whether the 300 kV ceiling is appropriate and reflects actual system configurations that serve local distribution, the stated purpose of the local network exclusion. Thus, the Commission requested comment whether the 300 kV ceiling is appropriate for the application of exclusion E3 and requested examples of systems between 200 and 300 kV that would qualify for this exclusion.

Comments

201. NERC asserts that the 300 kV cap is appropriate. NERC reiterates that the voltage cap is consistent with the distinction being made between extra high voltage and high voltage in the Reliability Standard TPL–001–2. NERC adds that the important attributes of a local network are the limit on capacity of connected non-retail generation, prohibition of power flow out of, or through, the local network, and prohibition of local networks containing flowgates or major transfer paths. NERC maintains that these attributes, rather than the operating voltage of the local network facilities, assure that local networks do not impact reliability of the interconnected transmission network.

202. Most commenters agree that the 300 kV threshold is appropriate.[173] With respect to the Commission's request for examples of systems between 200 and 300 kV that would qualify for this exclusion, ICNU states that, one of its members operates a large industrial facility that takes service from the bulk electric system from two transformers, both of which operate at 230 kV on the high side, but step down to 13.5 kV for distribution within the complex. According to ICNU, this industrial plant serves no reliability function and serves only the retail load, but if the ceiling for exclusion E3 were lowered to 200 kV, this network potentially would not be excluded because it contains some elements operating between 200–300 kV. ICNU believes that the function of a local network, rather than its voltage, is the critical factor in excluding it from the bulk electric system and therefore, recommends a local network exclusion based on function, not voltage. Nonetheless, to the extent a ceiling is deemed necessary, ICNU states that the 300 kV threshold is appropriate.

203. WPPC supports the 300 kV ceiling and WPPC states that the ceiling reflect industry's extensive use of 115–230 kV system to provide distribution service through a local network. WPPC points out that in low density areas it is more economical to serve load using one 230 kV network rather than four 69 kV networks. WPPC adds that many 55 and 69 kV networks that serve towns and cities have been upgraded to 115 or 230 kV for economic, technical and environmental reasons, but raising the voltage does not change their function.

204. In contrast, BPA, Hydro One, and WREA express concern regarding the 300 kV cap. BPA states that the 300 kV ceiling may not ''reflect[] actual system configurations that serve local distribution, the stated purpose of the local network exclusion.'' [174] BPA believes that exclusion E3 should not apply to any facility above 200 kV, without appropriate review, analysis,

[169] Idaho Power Comments at 11.

[170] WREA Comments at 9.

[171] AEP Comments at 10.

[172] NERC BES Petition at 23.

[173] *E.g.* National Grid, AEP, ICNU, and WPPC.

[174] BPA Comments at 8.

and concurrence, from the impacted transmission operator, planning authority, and reliability coordinator. BPA states that fault magnitudes on systems between 200 kV and 300 kV are much higher than fault magnitudes on systems operated below 200 kV. According to BPA, these systems have a much higher potential for serious impacts than networks operating below 200 kV if something fails to operate properly, including cascading outages, transient instability, and post transient voltage instability.

205. Hydro One believes that the 300 kV cap associated with the applicability of exclusion E3 is not justifiable on technical grounds, and submits that certain systems with greater than 300 kV should be able to qualify for exclusion E3 based on their own merits. Hydro One states that a radial or a local network below 300 kV can have as much or more impact on the reliability of the interconnected transmission network than a local network operating at 300 kV or above depending upon its location and configuration. WREA also disagrees with the 300 kV ceiling and recommends that the Commission delete this limitation entirely.

Commission Determination

206. The Commission approves the 300 kV voltage threshold for local networks for the initial implementation of the definition. While we approve the 300 kV threshold, the limited number of examples provided for 200–300 kV systems cause us to seek additional information. Thus, following implementation when actual exclusion data is available, the Commission directs NERC to submit a compliance filing within one year of the implementation date identifying in sufficient detail the types of local network configurations that have been excluded from the bulk electric system under this exclusion. This will assist us in better understanding the type and magnitude of systems that fall into above 200 kV category.

d. Criterion (a)—Limits on Connected Generation

NOPR Proposal

207. Exclusion E3 criterion (a) provides that the local network and its underlying elements do not include the blackstart resources identified in inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA gross nameplate rating. In addition, criterion (a) does not limit the amount of generation besides ''non-retail generation'' connected to the local network. The Commission stated in the NOPR that it agrees with NERC that ''local networks'' do not include blackstart resources and agrees with the limits on the connected generation imposed by this exclusion. The Commission also stated that similar to the discussion of the definition of ''radial systems'' in exclusion E1, the exclusion E3 local network exclusion applies to ''transmission Elements,'' but does not exclude generation resources connected to a local network that otherwise satisfy inclusion I2.

Comments

208. NERC concurs with the Commission's statement that ''local networks'' do not include blackstart resources and agrees with the limits on the connected generation imposed by this exclusion. NERC, EEI, Alameda, Hydro One, and WREA state that, whether or not generation is included in the bulk electric system is determined by inclusions I2 through I4 and exclusion E2. In addition, NERC confirms that exclusion E3 does not exclude generation resources.

209. In contrast, some commenters are concerned about allowing generators identified in inclusion I2 to be connected to local networks. Idaho Power states that it is not appropriate to exclude a local network if it contains generation that would normally be included in the bulk electric system through inclusion I2.[175] PSEG Companies states that ''there is confusion created by the fact that generators included in the [bulk electric system] definition per [inclusion] I2 are at the same time excluded under [exclusions] E2 and E3.'' [176] According to PSEG Companies, a generator cannot be included under one provision of the bulk electric system definition and excluded under another provision and that this issue requires clarification and, once clarified, the bulk electric system definition needs to be modified accordingly.

210. Some commenters seek clarification of exclusion E3 criterion (a) regarding the term ''non-retail.'' [177] Barrick and the IUU raise several questions about exclusion E3. First, they claim that the phrase ''not * * * non-retail generation'' is unclear and question whether it means generation used for retail. They also question whether exclusion E3 excludes generation resources for an owner's own use or generation used for wholesale. They also ask how the term ''non-retail'' relates to ''net capacity.''

211. While Holland supports the exclusion of local networks from the bulk electric system, Holland argues that criteria (a) and (b) should be eliminated because they limit the amount of connected generation, even where the connected generation is distributed locally. Holland states that exclusion E3(a) improperly maintains the aggregate 75 MVA limit for connected generation. Holland believes this limit is inconsistent with the concept of a local network and should be removed. Holland explains that if the local network does not accommodate bulk power transfer across the interconnected system, then the amount of generation that exists and is distributed within that system, regardless of size, is distributed and consumed locally, and is therefore beyond the scope of FPA Section 215. Holland maintains that, if the Commission does not remove exclusion E3(a) in its entirety, it should require the limitation to be based on the net of the local network's total load, rather than the gross nameplate rating.

212. NESCOE contends that three conditions in exclusion E3 would unnecessarily include some New England networks in the bulk electric system without any clear reliability benefit. In particular, NESCOE states that the limits on connected generation should be raised to 300 MVA instead of 75 MVA, stating that the northeast portion of the eastern interconnection defines a 1200 MVA loss of source as the largest contingency to which the control area is designed to operate. Therefore, NESCOE believes that 25 percent of that contingency at 300 MVA falls well within typical loss of source expectations for the northeast. Alameda suggests that the Commission raise the connected generation limitation for local network exclusions to 150 MVA. According to Alameda, since the local network is comparable to two radials, limiting a local network to 75 MVA could result in entities choosing to operate two less reliable radial systems, each with 75 MVA of generation, rather than one local network with 150 MVA of generation to avoid a designation as bulk electric system for their local network.

Commission Determination

213. We find that the local network exclusion only applies to ''transmission Elements'' and does not allow the exclusion of generation resources otherwise included in the bulk electric system pursuant to inclusion I2, as

[175] Idaho Power Comments at 10.

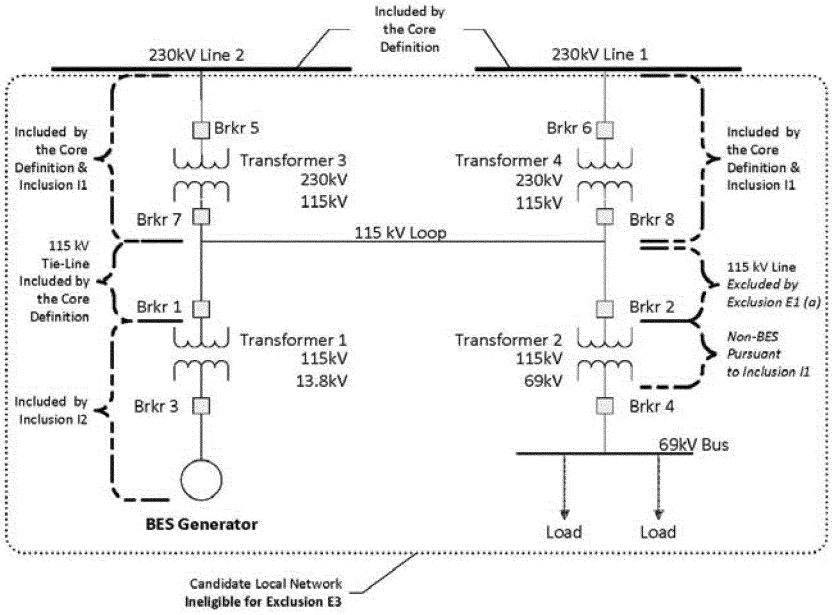
[176] PSEG Comments at 11.

[177] *E.g.,* Barrick, IUU, and PSEG.

discussed above in our determination regarding exclusion E1.

214. Further, as discussed above regarding exclusion E1, the Commission agrees with Idaho Power, PSEG Companies, SmartSenseCom, and AEP that tie-lines for generators identified in the inclusion I2 should not qualify for exclusion as radial systems or local networks. Rather the tie-lines can be considered for exclusion under NERC's exception process. Accordingly, consistent with the Commission's directive discussed above regarding exclusion E1, the Commission directs NERC to implement exclusion E3 so that the exclusion for local networks does not apply to bulk electric system generator tie-lines operated at or above 100 kV as shown in the figure below.

115 kV Loop with BES Generation



215. In response to Barrick's and IUU's requests for clarification, we decline to clarify the terms/phrases ''non-retail,'' ''gross plant/facility,'' ''not necessary,'' ''aggregate,'' ''net capacity,'' and ''retail meter.'' We believe the terms/phrases are sufficiently clear. However, Barrick and IUU may pursue further clarification from NERC in an appropriate forum such as NERC's Phase 2 project.

216. With regard to the comments of Holland, NESCOE and Alameda, we will not direct any change in the connected generation limitation for the local network exclusion. The limit on connected generation within the local network is consistent with the existing threshold above which a generating plant in aggregate becomes subject to registration under the NERC Registry Criteria. Entities may avail themselves of the exception process to exclude a local network that otherwise does not qualify pursuant to exclusion E3.

e. Criterion (b)—Power Flows Only Into the Local Network

NOPR Proposal

217. Exclusion E3 criterion (b) specifies that, to qualify for the exclusion, power can only flow into the local network and the local network does not transfer energy originating outside the local network for delivery through the local network. The Commission noted in the NOPR that, pursuant to criterion (b), generation produced inside a local network is not transporting power to other markets outside the local network. The Commission stated in the NOPR that it understands that criterion (b) applies in both normal and emergency operating conditions.[178]

Comments

218. NERC confirms, and TAPS, Idaho Power and others concur with the Commission's understanding that, pursuant to criterion (b), generation produced inside a local network is not transporting power to other markets outside the local network. NERC and other commenters also agree that criterion (b) applies in both normal and emergency operating conditions.

219. NERC states that prohibitions on outbound power flow and transportation of power to other markets beyond the local network apply in all conditions, both normal and contingent, and will eliminate the exclusion of facilities which may contribute power flow into the bulk electric system under contingent or unusual circumstances. According to NERC, basing the determination solely on normal conditions could lead to inconsistent application of this exclusion and would introduce subjectivity into the application of the definition.

220. Duke Energy agrees with NERC's comment that prohibitions on outbound power flow beyond the local network apply in ''both normal and contingent conditions,'' but believes that ''contingent'' should be further clarified as limited to N–1 contingencies for the bright line definition. Idaho Power also agrees, and comments that additional clarification is needed to define whether the meaning of ''emergency conditions'' includes contingencies within the local network itself. In contrast, Southern Companies states that criterion (b) would apply in normal but not emergency operating conditions. MISO cautions against precluding local

[178] *See* NOPR, 139 FERC ¶ 61,247 at P 98 (citing NERC BES Petition, Exh. E at 59 (''The Commission directed NERC to revise its BES definition to ensure that the definition encompasses all Facilities necessary for operating an interconnected electric Transmission network. The SDT interprets this to include operation under both normal and Emergency conditions * * *.'')).

networks from sending electricity to the transmission system in emergency conditions when doing so could improve the availability of electricity.

221. Portland notes that the application of criterion (b) in both normal and emergency operating conditions is similar to one element of the Seven Factor Test that states that power rarely if ever flows out. Portland suggests that the Commission should clarify the relationship between the Seven Factor Test and the local distribution exception in the reliability regulatory context.

222. Alameda believes that the power flow prohibition should apply only where the flow from the local network is necessary for the reliable operation of the interconnected transmission network. Alameda contends that these conditions would typically apply during peak or near-peak operating conditions and that it would be inappropriate to include a local network in the bulk electric system because generation flowed outside the local network only under off peak conditions when these flows were not vital to reliability. Alameda suggests that the power flow prohibition be modified to allow flows of less than 75 MVA to flow outside the network, making the local networks electrically comparable to radial systems with a 75 MVA generator.

223. ISO New England believes the NOPR suggests an implicit expectation regarding the determination of local networks in that there is no stated requirement for contingency analyses in that determination. ISO New England believes that the Commission understanding of criterion (b) implies that criterion (b) needs to be analyzed both pre- and post-contingency. In such a case, this issue needs to be defined in the exclusion. Additionally, ISO New England requests clarification whether this indicates that one must apply a first contingency to the analysis or a second contingency in determining if the criterion is met.

224. Dow asserts that the requirement that power may only flow into a local network should be clarified to apply only to power that originates outside of, and flows through, a local network. Dow believes that it should not apply to power generated by non-retail generation resources meeting applicable size or export quantity thresholds that are connected to local networks. Dow maintains such a clarification is consistent with other language in the exclusion specifying that up to 75 MVA of non-retail generation may be attached to a local network. Dow views the reference to non-retail generation as intended to apply to generation resources that are used to make wholesale sales which requires that power be able to flow into the bulk electric system for delivery to downstream buyers. Dow also states that exclusion E3 should be clarified to address situations in which a local network does not qualify for the local network exclusion because it is not clear ''whether all facilities rated 100 kV and above that are part of the local network would be considered part of the [bulk electric system] and become subject to transmission-related reliability standards * * *.'' [179]

225. Valero contends that criterion (b) indicates that the existence of a power flow that ''transfers through the local network'' would disqualify an element from satisfying the exclusion. On the other hand, Valero points to the excerpt from the NERC BES Petition which implies that this meaning of criterion (b) might not be the appropriate interpretation.[180] Valero requests that the Commission either clarify as stated above or modify criterion (b) to allow for transfers through the local network if such transfers are not necessary for the reliability of the interconnected transmission network.

226. NESCOE and G&T Cooperatives state that minimal transfers may and do occur, and local networks should not necessarily be ineligible for exclusion E3 simply because some amount of power may transfer out of the network. NESCOE states that the Commission should direct NERC to reevaluate exclusion E3 to allow these minimal flows up to a 100 MVA limit.[181] G&T Cooperatives state that even with optimal load projections, there may be times when energy flows into the local network that exceed the load, and in those cases the local network may need to export the excess energy back to the bulk electric system which could create perverse incentives to restrict flows into and out of the local network. G&T Cooperatives suggest that criterion (b) should be read to allow exclusion E3 to cover local networks in which ''normally'' power flows into the local network and the local network does not transfer energy originating outside the local network for delivery through the local network.

227. Holland states that the exclusion E3(b) criterion is unnecessary and should be removed. Holland states that exclusion E3(b) appears to be concerned with flows originating from outside of the local network, coming into the local network, and then exiting the local network to loads outside of the local network. According to Holland, however, exclusion E3(c) appears to address this concern because it fails to recognize that a local network may have internal generation that is less than its peak load but in excess of off-peak load levels. Holland states that, if exclusion E3(b) is maintained, then the clause, ''[p]ower flows only into the [local network],'' should be deleted because it is inconsistent with the second clause, ''the [local network] does not transfer energy originating outside the [local network] for delivery through the [local network].''

Commission Determination

228. The Commission finds that: (1) pursuant to exclusion E3 criterion (b), generation produced inside a local network should not transport power to other markets outside the local network; and (2) exclusion E3 criterion (b) applies in both normal and emergency operating conditions. The Commission agrees with NERC's statements that basing the determination solely on normal or optimal conditions could lead to inconsistent application of this exclusion and hence the definition itself, and would also introduce a degree of subjectivity in the application of the definition that is not in the interest of reliability.

229. MISO and other commenters suggest that local networks should be allowed to deliver power to the bulk electric system in some circumstances.[182] The Commission agrees that the facilities should supply such power if needed, but disagrees that facilities expected to be needed in this way should nonetheless be excluded from the bulk electric system. If a local network is expected to be needed to operate the interconnected transmission network, i.e., to meet reliability performance criteria in transmission planning assessments, it should not be excluded from the bulk electric system under exclusion E3. The Commission also rejects Holland's suggestion to remove criterion (b) because NERC has presented an acceptable technical justification for this and the other criteria in exclusion E3.[183] In response to Alameda's comment that some power should be permitted to flow out of a local network during off-peak hours, the

[179] Dow Comments at 6.

[180] The NERC statement is quoted in the NOPR at P 81: ''[l]ocal networks provide local electrical distribution service and are not planned, designed or operated to benefit or support the balance of the interconnected transmission network.''

[181] NESCOE states that this represents 25 percent of the rated value of a typical 345/115 kV substation.

[182] *E.g.* Southern Companies, Alameda, Dow, Valero, NESCOE, Holland and G&T Cooperatives.

[183] NERC BES Petition at 22–24.

Commission disagrees that the bright-line definition should be modified for case-specific circumstances. Entities can seek to exclude configurations that do not meet the exclusion E3 criteria through the exception process on a case-by-case basis. The Commission agrees with Portland that criterion (b) is similar to one element of the Seven Factor Test but otherwise addresses what constitutes local distribution above.

230. In response to Idaho Power and ISO New England asking for how emergency conditions are defined to determine if a candidate configuration meets exclusion E3 criterion (b), the Commission believes that the best way to show that a local network meets criterion (b) is through historical power flow data.

231. We will not direct NERC to allow minimal flows up to a 100 MVA limit as NESCOE requests. NESCOE may choose to pursue this matter further with NERC, with the Phase 2 project being one appropriate forum. Similarly, Dow may raise its contention that exclusion E3 should not apply to certain non-retail generation resources during Phase 2. Regarding Dow's argument that exclusion E3 should be further clarified, we believe our discussion above regarding figure 5 adequately addresses Dow's concern.

f. Criterion (c)—Not Part of a Flowgate or Transfer Path

232. Exclusion E3 criterion (c) specifies a ''local network'' does not contain a monitored facility of a permanent flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored facility in the ERCOT or Quebec Interconnections, and is not a monitored facility included in an interconnection reliability operating limit. NERC stated that the presence of a local network is not for the operability of the interconnected electric transmission network; neither will the local network's separation or retirement diminish the reliability of the interconnected electric transmission network.'' [184] The Commission stated in the NOPR that it believes that this is an appropriate criterion.

Comments

233. G&T Cooperatives state that criterion (c) should be clarified to allow local networks to come under exclusion E3 even if they are interconnected with a ''monitored facility of a permanent Flowgate'' in the Eastern Interconnection or a ''major transfer path'' in the Western interconnection. G&T Cooperatives recognize that such monitored facilities and major transmission paths are important to reliability, but criterion (c) could be read in a manner that would prevent a local network interconnected with such major facilities from qualifying under exclusion E3. G&T Cooperatives do not believe that NERC intended such a broad reading.

Commission Determination

234. The Commission finds that exclusion E3 criterion (c) is an appropriate criterion. We agree with NERC that facilities with, e.g., permanent flowgates, cannot be included in a local network as the separation of such facilities during a system event could have an adverse impact on the operation of the interconnected transmission network. The language for criterion (c) only prohibits flowgates and their associated monitored elements from being within a candidate local network. Therefore, we believe the language is sufficiently clear and will not direct NERC to modify this provision in response to G&T Cooperatives request for clarification.

9. Exclusion E4 (Reactive Power Devices)

NOPR Proposal

235. Exclusion E4 excludes from the bulk electric system ''Reactive Power devices owned and operated by the retail customer solely for its own use.'' NERC explained that exclusion E4 is the technical equivalent of exclusion E2 for reactive power devices and that the currently effective bulk electric system definition is unclear as to how these devices are to be treated. In the NOPR, the Commission stated that this is an appropriate exclusion that provides additional clarity and granularity to the definition of bulk electric system.

Comments

236. NERC, ELCON and EEI support the Commission's proposal. Steel Manufacturers Association supports a definitive exclusion for reactive power equipment that is installed and used to benefit end use loads. The exclusion, however, in the Steel Manufacturers Association's opinion, should not be confined to such devices that are owned and operated by a retail customer solely for its own use because there are instances in which capacitor banks have been installed for the benefit of a steel-making facility but, for various reasons, that equipment is owned, operated and maintained by its local utility. Consequently, the Steel Manufacturers Association suggests that exclusion E4 be revised to read: ''Reactive Power devices owned and operated by, or installed solely for the benefit of, retail customers.''

Commission Determination

237. The Commission finds that exclusion E4 is an appropriate exclusion that provides additional clarity and granularity to the definition of bulk electric system. In response to the Steel Manufacturers Association, we will not direct the suggested clarifying change to exclusion E4 criterion. Rather, Steel Manufacturers Association may choose to pursue this matter further with NERC in its Phase 2 project.

E. The NERC Rules of Procedure Exception Process, RM12–7–000

NOPR Proposal

238. As described above in section I.D.2, NERC proposed revisions to its Rules of Procedure to provide an ''exceptions process'' to add elements to, and remove elements from, the bulk electric system, on a case-by-case basis. NERC stated, *inter alia,* that the exception process decisions to approve or disapprove exception requests will be made by NERC, rather than by the Regional Entities.

239. In the NOPR, the Commission proposed to find that, pursuant to section 215(f) of the FPA, the exception process is just, reasonable, not unduly discriminatory or preferential, and in the public interest and satisfies the requirements of section 215(c). Further, the Commission proposed to find that the proposed exception process satisfies the statement in Order No. 743 that NERC establish an exception process for excluding facilities that are not necessary for the reliable operation of the interconnected transmission network from the definition of the bulk electric system.[185]

Comments

240. Many commenters support the exception process as proposed. Commenters state that the exception process will be able to handle the more unusual situations that need to be addressed on a case-by-case basis, including sub-100 kV transmission elements that are necessary for the reliable operation of the interconnected transmission network.[186] They further state that the exception process balances the need for effective and efficient administration with due process and clarity of expectations and promotes consistency in determinations and

[184] NOPR, 139 FERC ¶ 61,247 at P 93 (citing NERC BES Petition, Exhibit G at 2).

[185] *See* NOPR, 139 FERC ¶ 61,247 at PP 103–04 (citing Order No. 743, 133 FERC ¶ 61,150 at P 16).

[186] *E.g.,* ELCON, TAPS, and Southern Companies.

eliminates regional discretion by having all decisions on exception requests made at NERC. Southern Companies support approval of the exception process and assert that the Commission should allow time for NERC, Regional Entities and industry to implement the definition and exception process and determine at a later date whether it is sufficiently capturing the appropriate facilities.

241. MISO states that RTOs, as reliability coordinators, planning coordinators or authorities, and balancing authorities, should be allowed to file exception requests. MISO also states that there should be fewer requirements for filing exception requests by RTOs because they have been assigned substantial authority over facilities under their authority by their member transmission owners and operators, and because they utilize rigorous stakeholder processes. Specifically, MISO requests that the Commission direct NERC to modify the exception process to recognize RTO stakeholder processes and their results as evidence that the RTO as the submitting entity conferred with the owner about the reasons for an exception and either an agreement was reached between the entities that an exception should be filed and that the RTO should submit the exception, or that the entities could not reach agreement regarding the submission of such an exception request.

242. NYISO comments that the exception process needs to provide interested parties notice and an opportunity to be heard. NYISO states that ISOs and RTOs have an interest in participating in an exception proceeding prior to a final determination by the Regional Entity or NERC because exception requests may affect them operationally or in their planning studies depending upon the final determination made on the specific exception request.

243. NYPSC and NESCOE are concerned that NERC's proposal does not give state commissions an opportunity to participate directly in the process. NESCOE states that, without state participation, NERC will not address the full range of substantive concerns that may arise in any given case, and, if the Commission is asked to review an exemption determination, the record presented will not reflect the states' views. NESCOE is also concerned that the exceptions process lacks a mechanism for a state regulatory authority to initiate review of the classification of an element. NESCOE contends that states may have an interest in the proper classification of bulk electric system facilities, but they are not in a position to submit an exception request because they lack the detailed information required for a submission under the proposal. NESCOE suggests that this can be remedied by allowing a state to request a review from the relevant Regional Entity and to require the Regional Entity to submit a formal exception request if it finds that the classification is inaccurate. In addition, NESCOE believes that a state should have a right to seek review from NERC of the Regional Entity's determination.

244. In reply comments, NERC disagrees with MISO and explains that the exception process needs to be applied consistently and that the required information should be the same regardless of the identity of the submitter. NERC states that the Detailed Information Form is intended to ensure that a consistent baseline of technical information is provided to the Regional Entity and NERC with all exception requests, in addition to the specific information and arguments submitted by the submitting entity in support of its exception request. The MISO Transmission Owners and AMP support NERC's comments.

245. NERC also explains that RTOs and ISOs have the ability to file an exception request where they are acting in their capacity as planning authorities, reliability coordinators, transmission operators, transmission planners, or balancing authorities. NERC states that ''the exceptions process is technical and is based on engineering expertise, and these are the necessary parties with the required information.'' [187] NERC also disagrees regarding a state or third party role and the need for notice and access to information. NERC states that state commissions have other means and methods at their disposal for working with entities to identify candidates for an exception request. NERC notes that the exception process provides that detailed notice of any request would be provided to every registered entity with reliability oversight obligation (e.g., planning authorities, reliability coordinators, transmission operators, transmission planners, or balancing authorities) for the element subject to the request and that general information about an exception request will be publicly posted. NERC also notes that third parties including state regulatory agencies will have adequate opportunity to provide comments regarding the request without formally participating in the process.

[187] NERC Reply Comments at 5.

246. ICNU states that the Commission should make clear that utilities and Regional Entities, not end-use customers should be required to perform the studies to determine if a facility of an end-use customer should be included or excluded. Alameda suggests that the Commission set forth a future date for review of the definition seeking both an effectiveness report from NERC as well as industry comment.

247. IUU and Barrick believe that NERC's explanation that an exception may be obtained by showing that the element is ''not necessary'' for reliable operation of the interconnected transmission system is too ambiguous and does not give adequate information as to what may or may not be eligible for an exception. They believe guidance is necessary as to the types of evidence that should be presented in an exception request and the criteria to which the evidence will be subjected.

248. Redding states that the exception process provides that entities are not required to use the exception process to affirmatively demonstrate they fall within the general local distribution carve-out in the core definition or meet one of the exclusions. Redding notes that new section 509 of the Rules of Procedure states that application of the entire definition will determine what facilities qualify as bulk electric system components. Therefore, Redding argues that section 509 confirms that no exception request is necessary if the facility fits within either the local distribution carve-out language of the core definition, or the explicitly identified exclusions. Furthermore, Redding argues that this is confirmed by NERC's statement that the definition expressly excludes both ''facilities used in the local distribution of electric energy,'' and radial systems as described in Exclusion E1 of the definition. Redding believes this statement recognizes that facilities that are excluded from the definition at the outset—through either the core definition or the specific exclusions—need not submit any requests through the exemption process confirming that exclusion.

249. Holland is concerned that the exception process is too narrowly focused on excluding facilities that are not necessary for the reliable operation of the interconnected transmission network. Holland does not believe that exceptions should be limited to a demonstration that the facilities lack a material impact to the bulk electric system. Holland supports the exception process for this purpose; however, the lack of materiality demonstration is independent of the question of whether

the facilities should be excluded on the grounds that they are used in local distribution. Holland believes the Commission should clarify that, for exceptions seeking exclusion based upon a claim of being local distribution, NERC must evaluate additional information submitted, and not merely rely on the criteria in Exclusions E1 through E4.

250. Steel Manufacturers Association is concerned that because the Rules of Procedure provide that only a Regional Entity may submit an exception request for the inclusion in the bulk electric system of an element owned by an owner that is not a registered entity, they do not contemplate that the owner will be notified that its facilities are being considered for inclusion in the bulk electric system.

Commission Determination

251. Pursuant to FPA section 215(f), we approve the NOPR proposal and find that the exception process is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Further, we find that the proposal satisfies the statement in Order No. 743 that NERC establish an exception process for excluding facilities that are not necessary for the reliable operation of the interconnected transmission network from the definition of the bulk electric system.[188] The exception process balances the need for effective and efficient administration with due process and clarity of expectations and promotes consistency in determinations and eliminates regional discretion by having all decisions on exception requests made at NERC. The exception process also provides for involvement of persons with applicable technical expertise in making decisions on exception requests and allows for an entity to appeal a final NERC decision to the Commission.

252. The exception process provides a reasonable mechanism for the ERO to determine whether a facility or element should be added to, or removed from, the bulk electric system on a case-by-case basis. However, for the reasons explained above in our discussion in section II.C regarding local distribution, the case-by-case determination of whether an element or facility is used in local distribution will be decided by the Commission.

253. We also find that NERC's explanation, that it was not feasible to develop a single set of technical criteria that would be applicable to all exception requests so it developed the Detailed Information Form (discussed in detail below) to ensure that a consistent baseline of technical information is provided for NERC to make a decision on all exception requests, is reasonable. We find that this information, coupled with the proposed exception process, allows NERC to provide consistent determinations on exception requests submitted from different regions involving the same or similar facts and circumstances, and allows NERC to take into account the aggregate impact on the bulk electric system of approving or denying all the exception requests. Thus, we find that NERC's proposal is clear, transparent, and uniformly applicable and is as equally efficient and effective as the Order No. 743 directive to establish an exception process for excluding facilities that are not necessary for the reliable operation of the interconnected transmission network.

254. We are not persuaded by Barrick's and IUU's comments that more guidance is necessary. Order No. 743 tasked NERC with developing a revised definition and exemption process. NERC noted that it was not feasible to develop a single set of criteria. The Commission believes that applying the 100 kV threshold in the definition, the inclusions and exclusions and the information required in the Detailed Information Form will be a sufficient starting point to enable the ERO to make determinations as to whether an element is necessary for reliable operation of the interconnected transmission network. The body of exception decisions that NERC promulgates will further assist entities in presenting the relevant facts and circumstances when seeking an exception.

255. In response to MISO's request, we note that RTOs and ISOs, in their capacity as planning authorities, reliability coordinators, transmission operators, transmission planners, or balancing authorities, have the ability to file an exception request.[189] We are not persuaded that fewer requirements should apply to exception requests submitted by RTOs and ISOs, and we agree with NERC, MISO Transmission Owners and AMP that the exception process needs to be applied consistently and that the required information should be the same regardless of the identity of the submitter.

256. NYISO comments that the exception process should provide interested parties—particularly ISOs and RTOs—notice and an opportunity to be heard. As we note above, the exception process affords ISOs and RTOs, in their capacity as planning authorities, reliability coordinators, transmission operators, transmission planners, or balancing authorities, notice and opportunity to comment on elements within their scope of responsibility.

257. Similarly, with regard to NYPSC's and NESCOE's comments on the role of state commissions in the exception process, we believe that NERC's proposal is reasonable and provides an adequate opportunity for state regulator participation. Specifically, NERC explains in its ROP petition that, in developing the proposed Rules, state regulators and others raised concerns about their ability to participate in the exception process. NERC responded that ''the exception process should be one based on the technical reliability issues of the specific case presented.* * * [A] procedure that encouraged or even invited multi-party filings would unduly complicate the process without any concomitant benefit in reliability.'' [190] However, to provide transparency and some opportunity for participation, the proposed exception process provides that ''(1) detailed notice of any request would be provided to every Registered Entity with reliability oversight obligation for the Element subject to the Request and (2) general information about the request will be publicly posted,'' thereby allowing third parties including state regulators ''adequate opportunity to provide comments regarding the request without formally participating in the process.'' [191] We agree that NERC's proposal strikes an appropriate balance between efficient processing of highly technical decisions and the opportunity for states and other entities to comment in the exception process. Nonetheless, as discussed above, requests for exclusion from the bulk electric system on local distribution grounds will be determined by the Commission on a case-by-case basis. In such proceedings, state regulatory authorities will have an opportunity to intervene and provide comments.

258. We disagree with Redding's characterization of how the exception process is not necessary for determining whether an element is used for local distribution. Redding's characterization

[188] *See* Order No. 743, 133 FERC ¶ 61,150 at P 16.

[189] *See* NERC ROP Petition, Attachment 1, Proposed Appendix 5C, Section 4.1.

[190] NERC ROP Petition, Att. 9 (''The Development Process and Basis for the ROP Team's Recommended Provisions—How Stakeholder Comments were Considered and Addressed'') at 7.

[191] *Id.*

of the exception process leaves the determination of whether an element is used for local distribution in the hands of registered entities or NERC. However, as we explain in the local distribution discussion above, in circumstances where there is a factual question as to whether facilities not otherwise excluded from the bulk electric system by the core definition and four exclusions should nonetheless be excluded because they are used in local distribution, a determination should be made by this Commission. In addition, in our discussion in section II.C above regarding local distribution, we provide direction with respect to how an entity may seek a determination of whether an element is used in local distribution.

259. Regarding Steel Manufacturers Association's concern that the Rules of Procedure do not contemplate that an owner of an element that is not a registered entity will be notified by a Regional Entity that its facilities are being considered for inclusion in the bulk electric system, we note that section 4.1 of Appendix 5C the Rules of Procedure states that when a Regional Entity requests an exception, the Regional Entity ''shall prepare and submit copies of its exception request (or portions thereof) to all applicable entities* * *.'' [192] Further, section 4.4 of Appendix 5C provides that, if the submitting entity is not the owner (i.e., is a Regional Entity, planning authority, balancing authority, etc) it must provide a copy of the exception request to the owner. Therefore, if a Regional Entity submits an exception request for an element owned by a non-registered entity, the owner is notified.

260. With respect to Holland's request for clarification for what must be submitted for a claim of being local distribution, we believe that our discussion above regarding how local distribution elements will be determined addresses Holland's concerns.

261. In response to ICNU's comments, the Commission notes that NERC has identified the entities that are responsible for providing the information necessary for an exception request. Section 3.2 of the exception process states that ''the burden to provide a sufficient basis for approval of an exception request in accordance with the provisions of the exception procedure is on the submitting entity.'' Additionally, in section 4.1 of the exception process, NERC lists the eligible submitting entities as the owner of an element, or a Regional Entity, planning authority, reliability coordinator, transmission operator, transmission planner, or balancing authority that has (or will have upon inclusion in the bulk electric system) the elements covered by an exception request within its scope of responsibility.

262. Southern Companies state that the Commission should allow time for NERC, Regional Entities and industry to implement the definition and exception process and determine at a later date whether it is sufficiently capturing the appropriate facilities. Similarly, Alameda suggests that the Commission set forth a future date for review of the definition seeking both an effectiveness report from NERC as well as industry comment. First, as discussed below, the Commission is granting NERC's request for a 24 month implementation plan. The Commission believes that this is sufficient to implement the definition and exception process. In addition, the Commission declines to set a future date to determine effectiveness of the definition and the exception process.

1. How Entities Will Review and Seek Inclusion of Necessary Elements

NOPR Proposal

263. In Order Nos. 743 and 743–A, the Commission indicated that our goal is that the definition of bulk electric system should include all facilities necessary for the operation of the interconnected transmission network, except for local distribution. Further, while the Commission explained that one way to meet the goal was to establish a 100 kV ''bright line'' threshold, the Commission also made clear that the ''bright line'' threshold would be a ''first step or proxy'' in determining what facilities should be included in the bulk electric system.[193] The NOPR reiterated that, in Order Nos. 743 and 743–A, the Commission held that NERC should not necessarily stop at 100 kV and should, through the development of the exception process, ensure that ''critical facilities operated at less than 100 kV, and that the Regional Entities determine [which facilities] are necessary for operating the transmission network.'' [194] The Commission clarified that the inclusion of sub-100 kV facilities should be done in an ''appropriate and consistent'' manner.[195] Finally, in the NOPR, the Commission noted that the September 2011 Blackout Report reinforced statements in Order Nos. 743 and 743–A with respect to ensuring that sub-100 kV facilities, as appropriate, are included in the bulk electric system.[196] The Commission further noted that the NERC proposals at issue in this rulemaking take steps to address the treatment of sub-100 kV facilities, as well as other facilities, necessary for the operation of the interconnected transmission network, through the exception process. However, in light of the September 2011 Blackout Report, the Commission requested comment on how the relevant entities who control and run facilities on the interconnected transmission network will seek inclusion of sub-100 kV facilities, as well as other facilities, to ensure that all facilities that are necessary for the operation of the bulk power system are designated as bulk electric system elements.[197]

Comments

264. NERC proposes that entities can identify sub-100 kV facilities for inclusion in a variety of ways: In the course of performing planning assessments, from day-to-day operating experience, or assessment of system events that indicate facilities not identified by application of the definition are necessary for reliable operation of the interconnected transmission network. NERC further states that an entity that requests the inclusion or exclusion of a facility must provide certain technical and engineering support for its request. NERC also points out that the exception process provides for the appeal of a decision to NERC as to whether a facility is part of the bulk electric system. NERC believes this process adequately addresses the issue of whether certain sub-100 kV facilities are included in the bulk electric system.

265. ELCON states that the NOPR's suggestion that the entities would not take cognizance of Commission or NERC findings related to any sub-100 kV elements that have a material impact on system reliability would call into question the efficacy of the entire construct established by the Commission to address reliability issues.

266. APPA believes that it will be excessively burdensome to industry and small entities if they have to conduct a study of all their sub-100 kV elements. APPA asserts that it would require small registered entities to hire consultants to perform studies to assess the impact of large numbers of non-bulk electric system facilities.

[192] NERC Rules of Procedure, Appendix 5C, section 4.1.

[193] Order No. 743–A, 134 FERC ¶ 61,210 at P 40; *see also* NOPR, 139 FERC ¶ 61,247 at P 106.

[194] Order No. 743, 133 FERC ¶ 61,150 at P 121.

[195] Order No. 743–A, 134 FERC ¶ 61,210 at P 103.

[196] NOPR, 139 FERC ¶ 61,247 at P 107.

[197] NOPR, 139 FERC ¶ 61,247 at PP 109–10.

267. Idaho Power believes that entities could periodically (e.g. every five years) review the impact of sub-100 kV facilities and verify if any of the inclusions would require them to be included and explain why certain sub-100 kV facilities are excluded.

268. ISO New England and National Grid believe that, during the conduct of transmission planning system assessments, performed in accordance with requirements of the NERC Transmission Planning Reliability Standards, facilities required for inclusion in the bulk electric system may be identified.

Commission Determination

269. As we held in Order Nos. 743 and 743–A, the goal of revising the definition of bulk electric system is to ensure that all necessary facilities are included in the bulk electric system. As we noted in Order No. 743, applying the definition of bulk electric system should be a ''first step or proxy'' in determining which facilities should be included in the bulk electric system.[198] The Commission stated that NERC should not end the inquiry at 100 kV and should, through the development of the exception process, ensure that ''critical'' facilities operated at less than 100 kV, and that the Regional Entities determine are necessary for operating the interconnection network are included.[199] We continue to expect entities to identify and include sub-100 kV facilities, as well as other facilities, necessary for the operation of the interconnected transmission network. In the NOPR we asked how the entities responsible for including elements in the bulk electric system will assure that the all facilities, including sub-100 kV elements, that are necessary for operating the interconnected transmission network will be included in the bulk electric system. We find NERC's response to that question reasonable: That Regional Entities, planning authorities, reliability coordinators, transmission operators, transmission planners, balancing authorities, and owners of system elements will include, through the exception process, facilities identified in the course of performing planning assessments, from day-to-day operating experience, or assessment of system events that are not included by application of the definition but are necessary for reliable operation of the interconnected transmission network. We believe that entities, having knowledge of their systems and the concomitant planning assessments and system impact studies, will identify an element that is necessary for reliable operation of the integrated transmission network while conducting their day-to-day operations and planning and performing studies. If the element does not fall within the definition, we expect that the entity will submit the element for inclusion through the exception process. Use of this process should ensure that the all sub-100 kV elements, as well as other facilities, necessary for the operation of the interconnected transmission network are included in an ''appropriate and consistent'' manner. By identifying and seeking inclusion of sub-100 kV facilities, and other facilities, in the bulk electric system through performance of these routine functions, such as those identified by ISO New England and National Grid, we do not expect that entities will have to perform studies indiscriminately to make such determinations. Indeed, comments indicate that the determination of which elements, including sub 100 kV elements, should be included in the bulk electric system is a natural part of an entities' process for assuring the reliable operation of the grid.[200] Thus, the Commission believes that, if a study is needed outside the ordinary course of operations, it would be infrequent. By adopting this approach, we believe that APPA's concerns about burdensome tasks are alleviated.

2. NERC Role in Identifying Necessary Elements

270. In the NOPR, the Commission observed that, despite NERC's statutory functions to develop and enforce Reliability Standards, its continent-wide perspective, and technical understanding that can provide valuable assistance in the identification of bulk electric system facilities, the exception process does not provide that NERC may initiate an exception request. Accordingly, the Commission requested comments on the role NERC should have in initiating the designation of or directing others to initiate the designation of sub-100 kV facilities, or any other facilities, necessary for the operation of the interconnected transmission network for inclusion in the bulk electric system.[201] The Commission also requested comment on the role NERC should have in designating sub-100 kV facilities, and other facilities, for inclusion in the bulk electric system, directing Regional Entities or others to conduct such reviews, or itself nominating an element to be included in the bulk electric system.

Comments

271. NERC states that inherent in its oversight of the Regional Entities is the ability to request a Regional Entity or others to propose inclusion of sub-100 kV facilities, and other facilities in the bulk electric system. NERC further states that the Rules of Procedure do not limit its ability to perform this function and such action is fully consistent with NERC's obligations and authority as the ERO.

272. Dominion believes that if NERC wants to nominate a sub-100 kV facility, it could do so through the broad powers assigned to NERC through its Rules of Procedure and/or regional delegation agreements. TAPS maintains that if, through its investigations, risk assessments, or analysis of events, NERC identifies facilities that should be included in (or excluded from) the bulk electric system, it would be appropriate for NERC to have the authority to make such a proposal through the exception process, provided that it implements due process safeguards such as the designation of decisional and non-decisional staff.

273. Several commenters state that NERC should have the ability to nominate a facility for inclusion. SmartSenseCom believes NERC should have authority to initiate an exception request because, even with a bright line standard, there remains the possibility of inconsistent interpretation and application of the definition. ISO–NE states that NERC should have the ability to nominate a facility for inclusion, but the Regional Entities along with planning authorities, reliability coordinators, transmission operators, transmission planners and balancing authorities should be provided an opportunity to review and comment on this nomination.

274. AEP believes that RTOs or Regional Entities ''are equipped to facilitate the efforts to be effective with the exception process.'' [202] AEP also suggests that NERC and the Commission could assign review of sub-100 kV facilities to the RTOs. AEP states that the RTO processes could be modified to address the exceptions. AEP defers to the judgment of the Commission and NERC in regions where there are currently no functioning RTOs.

275. Other commenters do not support a NERC role as contemplated in the NOPR. SoCal Edison believes that

[198] NOPR, 139 FERC ¶ 61,247 at P 106 (citing Order No. 743–A, 134 FERC ¶ 61,210 at P 40).

[199] Order No. 743, 133 FERC ¶ 61,150 at P 121.

[200] *E.g.*, ELCON Comments at 8.

[201] NOPR, 139 FERC ¶ 61,247 at P 111.

[202] AEP Comments at page 11.

NERC should not initiate exception requests to include facilities within the bulk electric system. Rather, SoCal Edison posits that NERC's role is to communicate to the Regional Entities their obligation to review systems in their area that operate in parallel with the bulk electric system and to include such systems in the bulk electric system. APPA supports consideration of a NERC role in Phase 2 of the project to identify specific reliability gaps but objects to NERC being able to step into the shoes of the Regional Entity.

Commission Determination

276. NERC states that, as the ERO, and in its oversight of the Regional Entities, it has the ability to request a Regional Entity or others to propose inclusion of sub-100 kV facilities, and other facilities, in the bulk electric system. NERC believes that nothing in the proposed Rules of Procedure limits its oversight obligations and authority as the ERO. The Commission finds NERC's approach to be reasonable. Section 215(e)(4)(C) of the FPA authorizes the Commission to issue regulations authorizing the ERO to enter into an agreement to delegate authority to Regional Entities if the agreement promotes effective and efficient administration of Bulk-Power System reliability.[203] Subsequently, the Commission approved delegation agreements between NERC and the eight Regional Entities.[204] Pursuant to the delegation agreements, NERC may issue guidance or directions as to the manner in which a Regional Entity performs delegated functions and related activities.[205] Thus, the Commission agrees with NERC that, as the ERO, NERC has the authority to request a Regional Entity or other eligible submitting entity to propose inclusion of sub-100 kV facilities, or other facilities, in the bulk electric system.

277. TAPS supports NERC having the ability to initiate the designation of facilities or elements as part of the bulk electric system, provided that NERC implements due process safeguards such as the designation of appropriate decisional and non-decisional staff. We agree that, to avoid actual or appearance of impropriety, NERC must develop appropriate safeguards.

278. In response to AEP, the Commission will not direct modifications to provide RTOs and ISOs the authority to address exception requests. RTOs and ISOs can submit exception requests in their capacity as planning authorities, reliability coordinators, transmission operators, transmission planners, and/or balancing authorities.

3. Commission Role in Identifying Necessary Elements

NOPR Proposal

279. In the NOPR, the Commission requested comment on the role the Commission should have with respect to the designation of sub-100 kV facilities, or other facilities, necessary for the operation of the interconnected transmission network for inclusion in the bulk electric system. The Commission observed that ''there may be circumstances (like the September 2011 Blackout Report) where the Commission, through the performance of its statutory functions, may conclude that certain sub-100 kV facilities not already included in the bulk electric system are necessary for the operation of the interconnected transmission network and thus should be included in the bulk electric system.'' [206] The Commission stated that it expected that Regional Entities and others ''will take affirmative steps to review and include sub-100 kV elements and facilities, and other facilities, necessary for the operation of the interconnected transmission system in the bulk electric system,'' and requested comment as to how the Commission could ensure that such facilities are considered for inclusion in the bulk electric system.[207] The Commission also requested comment on instances when the Commission itself should designate or direct others to designate sub-100 kV facilities, or other facilities, necessary for the operation of the interconnected transmission grid for inclusion in the bulk electric system.

Comments

280. NERC notes that the Commission has authority pursuant to FPA section 215(d)(5) to initiate a Reliability Standards development process that ''addresses a specific matter.'' According to NERC, for the Commission to play a more active role in the designation of such facilities would be inconsistent with its role as the adjudicator of disputes.

281. Some commenters assert that the Commission has the authority to designate a facility as part of the bulk electric system.[208] SmartSenseCom states that, if the Commission is concerned that a facility is necessary for the operation of the interconnected transmission system, it possesses authority to order NERC or a Regional Entity to address that matter. Specifically, SmartSenseCom points to section 215(b) and section 215(d)(5) where the Commission has plenary authority over the ERO and ''all users, owners, and operators of the bulk-power system'' for the purposes of approving reliability standards and enforcing compliance with those standards.[209] SmartSenseCom states that, pursuant to the statutory authority, the Commission could, on its own motion, ''order [NERC] to submit * * * a modification to a reliability standard that addresses a specific matter if the Commission considers such * * * modified reliability standard appropriate to carry out this section.'' [210]

282. Furthermore, SmartSenseCom states that the Commission should be able to review NERC exceptions decisions. SmartSenseCom asserts that NERC decisions should be subject to the discretionary review of the Commission and the Commission should retain the ability to remand or reject an exception determination, pursuant to the Commission's FPA section 215 statutory authority to approve, disapprove, or remand NERC-proposed Reliability Standards. While the Commission should give NERC's exception decision ''due weight'' as required by section 215, SmartSenseCom asserts that the availability of review would ensure reliable operation of existing and future Bulk-Power System facilities. SmartSenseCom also suggests that Commission review of exception decisions would provide industry stakeholders with valuable precedent and clarity on the treatment of certain facilities.

283. Other commenters claim that the Commission does not possess the authority to designate elements as part of the bulk electric system. ISO New England contends that the Commission, as the ultimate decision making authority, should not have a role in nominating facilities for inclusion in the bulk electric system. APPA does not believe that the FPA gives the Commission authority to designate specific elements for inclusion in the

[203] 16 U.S.C. 824o (2006).

[204] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,060, *order on reh'g,* 120 FERC ¶ 61,260 (2007).

[205] *See, e.g.,* section 8(d) of the Amended and Restated Delegation Agreement between NERC and Midwest Reliability Organization (* * * the NERC Board (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which Midwest Reliability Organization and, if applicable, other Regional Entities, shall perform delegated functions and related activities.'').

[206] NOPR, 139 FERC ¶ 61,247 at P 112.

[207] NOPR, 139 FERC ¶ 61,247 at P 112.

[208] *E.g.,* Dominion and SmartSenseCom.

[209] SmartSenseCom Comments at 14, *quoting* 16 U.S.C. 824o(b).

[210] *Id.* at 14, *quoting* 16 U.S.C. 824o(d)(5).

bulk electric system. Rather, according to APPA, the Commission's role is to review NERC decisions. APPA states that policy considerations and Congressional intent also ''militate against direct [Commission] identification of specific facilities or classes of facilities to be included in the [bulk electric system] definition.'' [211] APPA asserts that, during the course of a Part 1b investigation or other inquiry, the Commission may identify facts that indicate that a registered entity has not properly applied the definition. APPA points to FPA section 215(e)(3) which provides that, after notice and opportunity for hearing, the Commission may enforce compliance by a particular user, owner or operator of the Bulk-Power System with a Reliability Standard, which could include application of the definition within the context of a specific reliability standard. APPA argues, that section 215 contemplates a standard development and enforcement framework in which rules of general applicability, i.e., Reliability Standards, are developed by the ERO on a continent-wide, and are subject to Commission approval prior to the enforcement of such Reliability Standards. In contrast, APPA argues that section 215 contemplates the delegation of enforcement authority by the ERO to Regional Entities that are organized to accomplish this specific purpose. APPA concludes that the Commission, like NERC, should focus its resources on ensuring that Regional Entities enforce compliance with the definition and the Rules of Procedure.

284. SoCal Edison does not support active Commission involvement in designating facilities for inclusion in the bulk electric system. According to SoCal Edison, because the Commission has the authority to review NERC's decisions in the exceptions procedure, the Commission's role should be limited to providing to NERC information that the Commission develops on facility categories that should potentially be included in the bulk electric system. Further, SoCal Edison states that NERC should be responsible for communicating that information to Regional Entities for further action and ensuring that those Regional Entities take the appropriate action with respect to such information, and the Commission should ensure that NERC and the regional authorities act upon the information provided by the Commission with respect to such facilities.

[211] APPA Comments at 20.

Commission Determination

285. For the reasons discussed below, we conclude that the Commission has the authority to designate an element as part of the bulk electric system pursuant to our authority set forth in sections 215(a)(1) and (b)(1) of the FPA. We are cognizant of the concerns stated by SoCal Edison and other commenters regarding the appellate role of the Commission, and the desire to allow registered entities and Regional Entities to take the lead in identifying sub-100 kV elements, and other elements, that should be included in the bulk electric system. As explained above, we expect entities to identify and include sub-100 kV elements, and other elements, that are necessary for operating the interconnected transmission network in the bulk electric system. Nonetheless, we believe that in appropriate circumstances, for example, where an event analysis of a system disturbance indicates the operational importance of sub-100 kV elements, and other elements, to bulk electric system reliability, the Commission may find it necessary for the reliable operation of the interconnected transmission network to designate facilities to be included in the bulk electric system. We anticipate that such circumstances will be rare. Consistent with the approach discussed in the NOPR, the Commission would provide public notice and opportunity for public comment before designating facilities as part of the bulk electric system.[212]

286. Commenters are mistaken in characterizing the Commission's designation of facilities as bulk electric system as a modification to the bulk electric system definition or other Reliability Standard. Rather, our authority to designate facilities is based on the statutory definition of Bulk-Power System and the jurisdictional authority vested in the Commission pursuant to section 215 of the FPA. Specifically, section 215(b)(1) of the FPA provides that ''the Commission shall have jurisdiction, within the United States, over * * * all users, owners and operators of the bulk-power system * * * for purposes of approving Reliability Standards established under this section and enforcing compliance with this section.'' [213] Section 215(a)(1) of the FPA, in turn, defines ''Bulk-Power System'' to mean ''facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and electric energy from generation facilities needed to maintain transmission system reliability.'' [214] If an entity owns or operates sub-100 kV elements, or other elements, ''necessary for operating an interconnected electric energy transmission network,'' the Commission has jurisdiction pursuant to FPA section 215(b)(1) to ''enforc[e] compliance with this section,'' and to ensure that the approved definition is being implemented properly.

287. For example, an entity may operate sub-100 kV elements, or other elements, that are, pursuant to the modified definition approved in this Final Rule, not treated as part of the bulk electric system. However, an event analysis may reveal that such facilities are ''necessary for operating an interconnected electric energy transmission network.'' As an appropriate prospective remedy, pursuant to the FPA section 215(b)(1) authority to ''enforc[e] compliance with this section,'' the Commission could designate the facilities as part of the bulk electric system. This approach is consistent with Commission precedent regarding unregistered entities whose facilities are involved in a violation of Reliability Standards. The Commission determined that, in such situations, the appropriate remedy is to register the entity so that, prospectively, the entity must comply with the relevant Reliability Standards based on the functions performed by that entity.[215]

288. The Commission would not modify the language of the definition of bulk electric system or the specific inclusions and exclusions. Rather, the Commission would initiate the designation of elements to ensure that the definition is properly applied. To be clear, when, for example, a system disturbance or other event demonstrates the necessity of sub-100 kV elements, or other elements, for reliable operations, we expect in the normal course that registered entities, Regional Entities and NERC will proactively identify and include sub-100 kV elements, or other elements, in the bulk electric system. The Commission's strong preference is that registered entities review their facilities to determine which are needed for operating the interconnected transmission network and include them in the bulk electric system. However, when it is recognized that an element is necessary for the operation of the interconnected transmission network and no other entity steps forward to

[212] NOPR, 139 FERC ¶ 61,247 at P 112, n.127.

[213] 16 U.S.C. 824o(b)(1).

[214] 16 U.S.C. 824o(a)(1).

[215] *See Reliability Standard Compliance and Enforcement in Regions with Regional Transmission Organizations or Independent System Operators,* 122 FERC ¶ 61,247, at P 19 (2008).

designate the element as included in the bulk electric system for purposes of section 215, the Commission has the authority to do so. We anticipate that such instances will be rare. Should the Commission find it necessary and appropriate to exercise this authority, we anticipate that the Commission would, for example, issue either a notice or order proposing to designate a specific element or elements as part of the bulk electric system, and explain the rationale for the proposal. The Commission would make a final determination after providing notice and opportunity for comment by interested parties.

4. Technical Review Panel

NOPR Proposal

289. NERC's exception process provides that the Regional Entity shall not recommend disapproval of the exception request without review by a technical review panel. The Regional Entity is not bound by the opinion of the panel, but the panel's evaluation becomes part of the record associated with the exception request and provided to NERC. In the NOPR, the Commission stated that it saw value in the Regional Entity receiving the opinion of a qualified technical review panel. The Commission observed that NERC did not explain why the proposed exception process only requires a technical review panel to provide an opinion where the Regional Entity recommends disapproval of an exception request. Accordingly, the Commission requested comment from NERC explaining why the review is only required when a Regional Entity disapproves a request and whether NERC should modify the exception process to require Regional Entities to submit all proposed determinations to a technical review panel regardless of the recommendation and receive the panel's opinion on each request.

Comments

290. NERC stated that it considered obtaining the opinion of a technical panel for all Regional Entity recommendations; however, NERC concluded that a review should only be required when a Regional Entity disapproves a request due to concerns regarding administrative efficiency. NERC determined that negative technical reviews would be sufficient to promote consistency and that the additional costs and work of a review of all proposed determinations would outweigh the benefits. NERC further states the record of every request is reviewed by a panel of experts at the NERC level as part of the decision making process.

291. Several entities support NERC's explanation.[216] ELCON believes NERC's approach will avoid the burden, inefficiency and delay inherent in unnecessary referrals to a technical review panel. ELCON notes that the exception process already calls for submission of in-depth technical information through the Detailed Information Form, initial review by the Regional Entity, and subsequent review and final decision by NERC. ELCON believes that considerable technical expertise will, therefore, be available to both the Regional Entity and to NERC as they assess exception requests.

292. In contrast, some entities believe that a technical panel be convened for either approval or denial of all exceptions.[217] They believe that using a panel for all requests will ensure that the requests receive adequate consideration and vetting before a final decision is rendered. WPPC requests that the Commission obtain additional information from NERC with respect to why the Technical Review Panels are not required to review all exception requests that are rejected on procedural grounds.

Commission Determination

293. The Commission accepts NERC's explanation that requiring a technical panel review of all Regional Entity recommendations will likely cause an additional administrative burden on Regional Entities, delaying final recommendations to NERC. While the Commission sees benefits in utilizing a technical review panel for all requests, we are not persuaded that these benefits will outweigh the costs associated with the increased administrative burden likely to be imposed. Additionally, if the Technical Review Panel does not provide an opinion on all exception requests, the exception process is not without other levels of technical review. On the contrary, the exceptions process provides multiple levels of technical review before a final determination is made by NERC, including a substantive review by the Regional Entity and a subsequent review by a panel of technical experts at the NERC level. For these reasons, the Commission approves the Technical Review Panel as proposed by NERC.

294. In response to WPPC's request, the Commission declines to seek further information from NERC with respect to why the Technical Review Panels are not required to review all exception requests that are rejected on procedural grounds. Section 5.1.5(a) of Appendix 5C to the Rules of Procedure requires a Regional Entity to reject an exception request if it is not from an eligible submitting entity and/or it does not contain all the required information specified in section 4.0. The Commission does not believe a Technical Review Panel needs to determine if an exception request was properly submitted by an eligible entity and/or contains all the required information. Additionally, as WPPC states in its comments, submitting entities may appeal Regional Entity rejections of exception requests to NERC through the procedure provided in section 7.0 of the exception process. Requiring Technical Review Panel review of all rejections of exception requests, as well as all recommendations of disapprovals, would unnecessarily impose administrative burdens as if the Technical Review Panel was required to review all exception request recommendations. For these reasons, the Commission declines WPPC's request to obtain further information from NERC on this matter.

5. Use of Industry Subject Matter Experts

NOPR Proposal

295. Section 8 of the proposed exception process sets forth the procedures for NERC's review of a Regional Entity's recommendation. The NERC President will appoint a team of at least three persons with the relevant technical background to evaluate an exception request. NERC contemplated that its review teams would be drawn from NERC staff resources, supplemented by contractors as necessary, but situations may arise in which NERC may need to call on industry subject matter experts to participate as members of review teams. In the NOPR the Commission supported NERC's proposal to use staff resources, supplemented by contractors as necessary, to make up the exception request review teams. We stated that consistent appointment of the same NERC staff and contractor resources, based on subject matter expertise, will promote a more uniform and consistent review of the Regional Entities' exception request recommendations.

Comments

296. No comments were received on this issue.

[216] *E.g.,* Idaho Power, ELCON, and G&T Cooperatives.

[217] *E.g.,* ISO New England and BPA.

Commission Determination

297. The Commission agrees with NERC's proposal to use staff resources, supplemented by contractors as necessary, and potentially industry subject matter experts to make up the exception request review teams. The Commission believes that ensuring that members of the NERC review teams have the required technical background necessary to evaluate exception requests, review supporting technical documents, and assess technical recommendations, is essential to providing consistent technically sound determinations on exception requests. The Commission believes that consistent appointment of the same NERC staff, contractor resources and industry subject matter experts, based on subject matter expertise, will promote a more uniform and consistent review of the Regional Entities' exception request recommendations.

6. NERC's Detailed Information Form

NOPR Proposal

298. NERC developed the Detailed Information Form that the Regional Entity and NERC can use in evaluating whether or not the elements that are the subject of an exception request are necessary for operating the interconnected transmission network. In the NOPR, the Commission stated that this information will provide consistency with respect to the technical information provided with all exception requests and is an equally efficient and effective approach to developing a substantive set of technical criteria for granting and rejecting exception requests and proposed to approve the Detailed Information Form.

Comments

299. ELCON supports the Detailed Information Form and agrees that it is ''more feasible to develop a common set of data and information that could be used by the Regional Entities and NERC to evaluate exception requests'' than to develop the detailed criteria and that the information specified in the form is relevant and appropriate for exception requests.

300. Holland and Alameda state that there should be some basic guidelines to evaluate an exception request. Alameda states that having no technical criteria provides entities with no guidance considering a request for exception. Alameda submits that parties should have a reasonable basis for determining the outcome of a potential exception request in advance of taking the time and effort to make the request. Alameda suggests that the Commission direct NERC to develop appropriate technical exception criteria, recognizing that each criterion may not apply to all requests and that the criterion may even change over time as specific requests are evaluated in detail. Alameda also seeks clarification that parties may seek exceptions for proposed facilities, and not just for existing facilities as allowing exceptions to be requested for proposed facilities would provide an opportunity for entities to make reasoned decisions about planned system improvements.

Commission Determination

301. We approve the Detailed Information Form and find that it will provide consistency with respect to the technical information provided with all exception requests and is an equally efficient and effective approach to developing a substantive set of technical criteria for granting and rejecting exception requests. We decline to adopt Alameda's suggestion that the Commission direct NERC to develop appropriate technical exception criteria. We accept NERC's conclusion that it was more feasible to develop a common set of data and information that could be used by the Regional Entities and NERC to evaluate exception requests than to develop the detailed criteria. NERC's proposal provides the needed flexibility to allow Regional Entities to make a recommendation of whether or not an element is necessary for the reliable operation of the interconnected transmission network. Thus, the detailed criteria that NERC requires, plus other information that an entity is free to include in its submission will provide applicants a reasonable basis for determining whether an element is necessary for the reliable operation of the interconnected transmission network. We also decline to direct NERC to determine how to treat exceptions for proposed facilities.

7. NERC's Implementation Plan

NOPR Proposal

302. NERC requests that the effective date for revised definition should be the first day of the second calendar quarter after receiving applicable regulatory approval, or, in those jurisdictions where no regulatory approval is required, the revised bulk electric system definition should go into effect on the first day of the second calendar quarter after its adoption by the NERC Board. NERC also requested that compliance obligations for all newly-identified elements to be included in the bulk electric system based on the revised definition should begin twenty-four months after the applicable effective date of the revised definition. NERC stated that sufficient time is needed to implement transition plans, for exceptions to be filed and processed, for owners of newly-included elements to train their personnel on compliance with the Reliability Standards. In the NOPR, the Commission supported NERC's justification for its implementation and proposed to approve NERC's implementation plan.

Comments

303. A number of commenters support the NOPR proposal.[218] ELCON states that the twenty-four month time period gives sufficient time to accommodate planning for and changes resulting from the new definition, including any exception requests and compliance obligations, without causing undue delay. Consumers believes the twenty-four month period should be sufficient in most cases but believes that the Commission should make specific provision for longer periods to be allowed on a case-by-case basis under special circumstances. Barrick and IUU also support the implementation plan but believe further clarification is necessary with respect to an entity's status during the exception process.

Commission Determination

304. We agree with commenters that the twenty-four month time period gives sufficient time to accommodate planning for and changes resulting from the new definition, including any exception requests and compliance obligations. Therefore, we approve NERC's proposal to implement a twenty-four month implementation plan. In response to Consumers' comment regarding the need for additional time for special circumstances, an entity or NERC may petition for an extension of time. In response to the comments raised by Barrick and IUU, we clarify that the status of an element remains unchanged during the exception process.

8. NERC List of Facilities Granted Exceptions

NOPR Proposal

305. In the NOPR, the Commission noted that the proposed exception process does not include provisions for NERC to maintain a list of facilities that have received exceptions, as requested in Order No. 743. In its petition, NERC indicated that this is an internal administrative matter for NERC to implement that does not need to be embedded in the Rules of Procedure. NERC stated it will develop a specific

[218] *E.g.,* Consumers Energy, ELCON, and NYISO.

internal plan and procedures for maintaining a list of facilities for which exceptions have been granted and notes that Regional Entities will maintain lists of elements within their regions for which exceptions have been granted, in order to monitor compliance with the requirement to submit periodic certifications.

306. In the NOPR, the Commission proposed that NERC make an informational filing within 90 days of the effective date of a final rule, detailing its plans to maintain a list and how it will make this information available to the Commission, Regional Entities, and potentially to other interested persons.[219] The Commission also requested comment on whether NERC's proposal should be modified to include an obligation for the registered entity to inform NERC or the Regional Entity of the entity's self-determination through application of the definition and specific exclusions E1 through E4 that an element is no longer part of the bulk electric system.

Comments

307. NERC confirms that it is continuing to develop details regarding how the list of facilities that have received exceptions will be maintained. According to NERC, a 90-day window of time in which to submit an informational filing is reasonable.

308. Other entities support NERC's plan.[220] AEP cautions that the process of submitting a filing must not overstep the confidentiality provisions of Critical Energy Infrastructure Information as part of the gathering and dissemination of list(s).

309. The Massachusetts DPU supports NERC's keeping a list of exceptions and requests that the Commission requires that state regulatory authorities have appropriate access to the list. ISO New England proposes that NERC submit a compliance filing detailing its internal process for tracking exception requests. ISO New England also believes that NERC and/or the Regional Entities should be required to maintain a database that lists the bulk electric system elements within their respective footprints and should make this data available for affected entities.

Commission Determination

310. We adopt the NOPR proposal and direct NERC to make an informational filing within 90 days of the effective date of this Final Rule detailing its plans to maintain a list and how it will make this information available to the Commission, Regional Entities, and potentially to other interested persons. We find that the suggestions of the Massachusetts DPU and ISO New England are premature as these comments are more appropriate for consideration after NERC makes its compliance filing.

9. Declassification of Facilities

NOPR Proposal

311. In the NOPR, the Commission observed that, while NERC will maintain a list of facilities that have received an exception pursuant to the case-specific exception process, NERC does indicate whether it will track an entity's ''declassification'' of current bulk electric system facilities based on the entity's self-application of the bulk electric system definition.[221] The Commission expressed concern particularly when an entity self-determines that an element is no longer part of the bulk electric system but the entity is large enough to otherwise remain on the NERC Compliance Registry. Accordingly, the Commission requested comment on whether NERC's proposal should be modified to include an obligation for the registered entity to inform NERC or the Regional Entity of the entity's self-determination through application of the definition and specific exclusions E1 through E4 that an element is no longer part of the bulk electric system.

Comments

312. NERC asserts that registered entities are obligated to inform the Regional Entity of any self-determination that an element is no longer part of the bulk electric system. NERC points to section 501 of the currently-effective Rules of Procedure, which provides that each registered entity must notify its Regional Entity of any matters that affect the registered entities' responsibilities with respect to Reliability Standards. NERC contends that a determination that an element is no longer part of the bulk electric system would necessarily affect an entity's responsibilities with respect to the Reliability Standards. Further, NERC states that an entity's failure to notify would not relieve it of any obligations it may have associated with such failure.

313. Idaho Power and National Grid support that registered entities should inform NERC or the Regional Entity of elements that have been declassified. National Grid supports an obligation for each registered entity to inform the respective reliability coordinators and Regional Entity of the entity's self-determination through application of the definition and specific exclusions that an element is no longer part of the bulk electric system.

314. PSEG Companies do not support requiring self reporting. PSEG Companies point out that when the NERC Functional Model was first put in place, registered entities made determinations of which facilities should be included and excluded from the bulk electric system without any reporting requirements for those decisions. PSEG Companies assert that a registered entity should only be contacting its Regional Entity regarding status changes if those changes impact the registered entity's registration (e.g., if a registered Transmission Owner disposes of all its 100 kV or higher assets or a generation owner acquires its first BES generator). According to PSEG Companies, facility changes that impact a facility's bulk electric system status do not presently require reporting. The proposed reporting self-determined exclusions could lead to extensive facility-by-facility tracking and reporting of all status changes which would be overly burdensome to Registered Entities.

315. AEP believes that it is imperative to keep the process simple in the beginning, and thus advocates that no specific information submission requirements be implemented at this time. If NERC or the Regional Entities determine this approach is problematic in the future, AEP states that any issues can be addressed through a change in the NERC Rules of Procedure.

316. ICNU states that if NERC requires an end-use retail customer to provide notice of declassification, such notice should not involve extensive or burdensome reporting requirements because, as noted above, end-use customers do not have the required resources or expertise. On the other hand, ICNU believes that non-registered end-use retail customers who, based on the new BES definition, determine that they remain excluded from the BES should not be listed or required to report such determination to NERC or the appropriate Regional Entity.

Commission Determination

317. We agree with NERC that registered entities are obligated to inform the Regional Entity of any self-determination that an element is no longer part of the bulk electric system. PSEG Companies claim that there is currently no requirement to report the change in status of facilities. NERC, however, cites section 501 of the currently-effective Rules of Procedure,

[219] NOPR, 139 FERC ¶ 61,247 at P 123.

[220] ELCON and NRECA.

[221] NOPR, 139 FERC ¶ 61,247 at P 123.

which provides that each registered entity must notify its Regional Entity of any matters that affect the registered entities' responsibilities with respect to Reliability Standards. Section 501 also requires entities to inform the Regional Entity of any self-determination that an element is no longer part of the bulk electric system. Section 501, Part 1.3.5 provides:

> Each Registered Entity identified on the NCR shall notify its corresponding Regional Entity(s) of any corrections, revisions, deletions, changes in ownership, corporate structure, or similar matters that affect the Registered Entity's responsibilities with respect to the Reliability Standards. Failure to notify will not relieve the Registered Entity from any responsibility to comply with the Reliability Standards or shield it from any Penalties or sanctions associated with failing to comply with the Reliability Standards applicable to its associated Registration.

Thus, a registered entity that concludes that an element is no longer part of the bulk electric system must notify the Regional Entity of such change. Further, we disagree with PSEG Companies that such notification is unnecessary. PSEG Companies point out that NERC did not require such notification when the Functional Model was first put into place. Regardless of past practice, we find that such notification is a necessary feature of the changes being implemented by NERC. As explained in the NOPR:

> A large utility with hundreds or thousands of transmission lines may initially determine that a configuration on its system does not qualify for the exclusion E3 local network exclusion, but subsequently determines that the configuration can be excluded. NERC's petition does not indicate whether an entity in such circumstance is obligated to inform NERC or the appropriate Regional Entity of that self-determination. It appears that NERC and the Regional Entities would need this information for their compliance programs, for audit purposes, and to understand the contours of the bulk electric system within a particular region.

Further, the revised definition allows entities the discretion to ''declassify'' certain facilities as part of the bulk electric system, and NERC, Regional Entities and the Commission need notification of such instances to assure that the entities are appropriately implementing the revised definition.

318. We affirm ICNU's assertion that this task does not involve new, extensive or burdensome reporting requirements. We view this as an identification and notification task so that a Regional Entity and NERC will know what elements are or not part of the bulk electric system. This will provide the entities tasked with overseeing the reliable operation of the interconnected transmission network with having an adequate level of information and transparency to fulfill those obligations. We disagree with PSEG Companies that this is an overly burdensome requirement. First, such information sharing is already contemplated by the Rules of Procedure. Second, as noted above, we do not view this requirement as one that involves anything more than notification. It does not require a justification of why the element is being excluded.

III. Information Collection Statement

319. The Office of Management and Budget (OMB) requires that OMB approve certain information collection and data retention requirements imposed by agency rules.[222] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

Public Reporting Burden and Information Collection Costs

320. In the NOPR, the Commission solicited comment on the need for collecting the information that is required to be prepared, maintained and/or submitted pursuant to this Final Rule, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The NOPR also included a chart that identified the estimated public reporting burdens for the proposed reporting requirements, as well as a projection of the costs of compliance for the reporting requirements. The Commission asked that any revised burden estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated. The Commission based its burden estimate on the revised definition of bulk electric system developed by NERC.

321. In the NOPR, the Commission stated that the proposal would result in entities reviewing systems and creating qualified asset lists, submitting exception requests where appropriate, and certain responsible entities having to comply with requirements to collect and maintain information in mandatory Reliability Standards with respect to certain facilities for the first time. The Commission requested comment on the estimated number of entities that will have an increased reporting burden associated with the identification of new bulk electric system elements as a result of the modified definition. In developing an estimate of the reporting burden associated with the inclusion of additional elements, like NERC, the Commission assumed that entities in the NPCC Region will be most affected, with a lesser affect in other regions.

Comments

322. NRECA and APPA do not take a position on the estimates but observe that modifications to the proposed definition or directives to NERC may result in substantial changes to the burden estimates and the assessment of whether the which would require the Commission to re-assess its burden and small business impact determinations. Similarly, APPA and WPPC believe that any changes to the proposed definition in the Final Rule that would include additional facilities would cause a significant increase in the reporting burden on the industry. APPA believes that if the Commission were to direct NERC to make revisions to the specific inclusions or exclusions without technical justification, the exception process would quickly become overloaded, with burdens on those seeking exceptions and those ruling on them.

323. A number of commenters state that the NOPR underestimated the burden of the rulemaking in terms of hours required to comply. APPA believes that the Commission underestimates the information collection costs and the costs of compliance for small utilities. For example, the Commission's assumption that utility staff would be used to conduct an analysis is not merited in the case of many small entities. APPA states that many of its smaller members do not have the in-house employees and resources to conduct such reliability analyses and would have to rely on outside consultants and legal firms. Therefore, APPA estimates that the fees small utilities would pay for each of the services, based on information and belief, as follows: Consulting Engineer, $225/hour; Record Keeping, $75/hour; and Legal, $500/hour.

324. Idaho Power contemplates five local network exclusions which contain sixty 100 kV and above lines, and its estimates for the time involved to document these exceptions leads it to believe the Commission is underestimating the number of engineer

[222] 5 CFR 1320.11 (2011).

hours per entity's responses. According to Idaho Power, based on an initial review of potential exceptions, Idaho Power may seek approximately 9–12 exceptions. Idaho Power agrees with the estimate that transmission owners, generator owners, and distribution providers will experience more significant reporting burdens than other categories of registered entities.

325. ISO New England believes that there could be a significant burden on planning coordinators and transmission planners which is not addressed in the table shown in the NOPR. ISO New England states that, while it has not performed a similar analysis, it appears that the ''Year 1'' estimates in the table in the NOPR are significantly understated in view of the resources that it believes will be necessary to establish the initial list. According to ISO New England, the estimate of approximately $13 million expended over the entire system seems overly optimistic. BPA anticipates, based on customer feedback, that the BPA footprint alone will experience several hundred exception requests in the first two years. BPA estimates the additional workload from evaluating the exception requests will be approximately five to six full time equivalents which includes one full time coordinator, a customer service engineer for system verification, a planner to run studies, an operations engineer, and dispatch personnel for real-time system impacts. NYPSC and the Massachusetts DPU contend that the costs of compliance with the definition will be excessive. NYPSC cites to a 2009 report from NERC and NPCC, that the compliance costs would exceed $280 million.

Commission Determination

326. Commenters raise concerns that modifications to the proposed definition or directives to NERC may result in substantial changes to the burden estimates. While the Commission is requiring one modification to the language in the NERC proposal, the Commission finds that it does not need to reassess the burden estimates because the change is intended to simply make more explicit what NERC and other commenters indicate is the expected application of the proposed definition to a low-voltage, looped system as depicted in figures 3 and 5 above. Therefore, we do not anticipate the one modification to result in a significant change to what elements are considered part of the bulk electric system or applications for case-by-case exceptions. The burden estimates in this Final Rule represent the incremental burden changes related only to increased reporting burden associated with the identification of new bulk electric system elements as a result of the modified definition. Furthermore, we acknowledge that NPCC may be subject to additional reporting requirements, however, the burden estimates are averages for all of the filers. Idaho Power's observation that the Commission is underestimating the number of engineering hours is not supported by analysis. Similarly, we are not persuaded by ISO New England's position that there may be a significant burden on planning coordinators and transmission planners associated with proposed definition because it does not offer any analysis to support this assertion. The Commission expects any burden for planning coordinators and transmission planners to be *de minimis* or incorporated under their existing responsibilities. In any event, Idaho Power and ISO New England did not provide any estimates of the number of hours that it would take to determine exceptions, nor suggest alternative estimates. In response to APPA's hourly estimates that are higher than the estimates in the NOPR the Commission notes that its hourly rate estimates for the burden estimates are averages for all of the filers and are based on national wage data for utilities obtained from the Bureau of Labor Statistics (for engineers and legal) and NPCC's assessment of Bulk Electric System Definition (for completing implementation plans and compliance), and Commission staff outreach (recordkeeping). Thus, the Commission adopts the burden estimates that it set forth in the NOPR.

327. The Commission disagrees with BPA that there may be a large number of exception requests generated from entities within its footprint that may have to be processed and the significant addition of FTEs. First, BPA has not provided any analysis or evidence to support its claim. Nevertheless, the Commission's expectation, like NERC's, is that application of the definition with its inclusions and exclusions should not materially change what is considered part of the bulk electric system today. Thus, the number of exception requests should not be excessive.

328. Some comments address the potential impact the requirements would have on small entities but did not provide specific estimates on this impact. Because these comments are also the subject of the analysis performed under the Regulatory Flexibility Act, the Commission has provided a response under that section of this rulemaking.

329. We are not persuaded by NYPSC and Massachusetts DPU that the costs for compliance will be $280 million. First, NYPSC nor Massachusetts do not dispute or address the specific information collection cost estimates in the NOPR. In addition, the vast majority (approximately $234 million) of the costs included in the report to which the commenters cite appear to be capital costs which are not applicable to an information collection estimate. Further, the report does not account for the revised language in the definition of bulk electric system and the specific inclusions and exclusions that we are approving in this Final Rule.

330. After consideration of comments, the Commission adopts the NOPR proposal for the Public Reporting Burden and the information collection costs as follows.

Requirement	Number and type of entity [223] (1)	Number of responses per entity (2)	Average number of hours per response (3)	Total burden hours (1)*(2)*(3)
System Review and List Creation [224].	333 Transmission Owners	1 response	80 (engineer hours)	26,640 Yr 1.
	843 Generator Owners		16 (engineer hours)	13,488 Yr 1.
	554 Distribution Providers		24 (engineer hours)	13,296 Yr 1.
Exception Requests [225]	1,730 total Transmission Owners, Generator Owners and Distribution Providers.	.260 responses each in Yrs 1 and 2. 20 responses in Yr 3 and ongoing.	94 (60 engineer hrs, 32 recordkeeping hrs, 2 legal hrs).	24,393 hrs in Yrs 1 and 2. 1,880 hrs in Yr 3 and ongoing.
Regional and ERO Handling of Exception Requests [226].	NERC and 8 Regional Entities.	1 response	1,386.67 hrs	12,480 hrs in Yrs 1 and 2.
Implementation Plans and Compliance [227].	111 NPCC Region Registered Entities [228].	1 response	700 hrs in Yrs 1 and 2 350 hrs in Yr 3 and ongoing.	77,700 hrs in Yrs 1 and 2. 38,850 hrs in Yr 3 and ongoing.
	75 Registered Entities from 7 other Regions.	1 response	700 hrs in Yrs 1 and 2 350 hrs in Yr 3 and ongoing.	52,500 hrs in Yrs 1 and 2. 26,250 hrs in Yr 3 and ongoing.
Totals				220,497 hrs in Yr 1. 167,073 hrs in Yr 2. 66,980 hrs in Yr 3 and ongoing.

Costs to Comply

- *Year 1:* $13,641,200.
- *Year 2:* $10,435,760.
- *Year 3 and ongoing:* $4,343,520.

For the first two burden categories above, the loaded (salary plus benefits) costs are: $60/hour for an engineer; $27/hour for recordkeeping; and $106/hour for legal. The breakdown of cost by item and year follows:

- *System Review and List Creation (year 1 only):* (26,640 hrs + 13,488 hrs + 13,296 hrs) =53,424 hrs * 60/hr = $3,205,440.
- *Exception Requests (years 1 and 2):* (sum of hourly expense per request * number of exception requests) = ((60 hrs * $60/hr) + (32 hrs * $27/hr) + (2hrs * $106/hr)) * 260 requests) = $1,215,760.
- *Exception Requests (year 3):* (sum of hourly expense per request * number of exception requests) = ((60 hrs * $60/hr) + (32 hrs * $27/hr) + (2 hrs * $106/hr)) * 20 requests) = $93,520.
- *Regional and ERO handling of Exception Requests:* Between NERC and Regional Entities we estimate 6 full time equivalent (FTE) engineers will be added at an annual cost of $120,000/FTE ($120,000/FTE * 6 FTE = $720,000). This cost is only expected in years 1 and 2.
- *Implementation Plans and Compliance* [229] *(years 1 and 2):* (hourly expense per entity * hours per response * sum of NPCC and non-NPCC entities) = ($64/hour * 700 hours per response * 186 responses) = $8,332,800.
- *Implementation Plans and Compliance (year 3 and beyond):* We estimate the ongoing cost for year 3 and beyond, at 50% of the year 1 and 2 costs, to be $4,166,400.

Title: FERC–725–J ''Definition of the Bulk Electric System''.[230]

Action: Proposed Collection of Information.

OMB Control No: 1902–0259.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: The revision to NERC's definition of the term bulk electric system implements the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the revised definition ensures that certain facilities needed for the operation of the nation's bulk electric system are subject to mandatory and enforceable Reliability Standards.

Internal review: The Commission has reviewed the proposed definition and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

331. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office

[223] The ''entities'' listed in this table are describing a role a company is registered for in the NERC registry. For example, a single company may be registered as a transmission owner and generator owner. The total number of companies applicable to this rule is 1,522, based on the NERC registry. The total number of estimated roles is 1,730.

[224] This requirement corresponds to Step 1 of NERC's proposed transition plan, which requires each U.S. asset owner to apply the revised bulk electric system definition to all elements to determine if those elements are included in the bulk electric system pursuant to the revised definition. *See* NERC BES Petition at 38.

[225] We recognize that not all 1,730 transmission owners, generator owners, and distribution providers will submit an exception request. Rather, from the total 1,730 entities, we estimate an average of 260 requests per year in the first two years, based on a low to high range of 87 to 433 requests per year. Therefore, the estimated total number of hours per year for years 1 and 2, using an average of 260 requests per year, is 24,393 hours. We estimate 20 requests per year in year 3 and ongoing.

[226] Based on the assumption of two full-time equivalent employees added to NERC staff and 0.5 full-time equivalent employees added to each region's staff, each full-time equivalent at $120,000/year (salary + benefits).

[227] The Commission does not expect a significant number of registered entities outside of the NPCC region to identify new elements under the revised bulk electric system definition. NERC also states that the other Regional Entities do not expect an extensive amount of newly-included facilities. *See* NERC BES Petition at 38. ''Compliance'' refers to entities with new elements under the new bulk electric system definition required to comply with the data collection and retention requirements in certain Reliability Standards that they did not previously have to comply with.

[228] The estimated range of affected NPCC Region Registered Entities is from 66 to 155 entities.

[229] The cost and hourly burden calculations for this category are based on a past assessment (NPCC Assessment of Bulk Electric System Definition, September 14, 2009.). In that assessment NPCC indicated $8.9 million annually for operations, maintenance and additional costs. We estimated that roughly half of that cost actually relates to information collection burden. Using the resulting figure, we used a composite wage and benefit figure of $64/hour to estimate the hourly burden figures presented in the burden table.

[230] All of the information collection requirements for years 1–3 in the proposed rule are being accounted for under the new collection FERC–725J.

of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

332. For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4718, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM12–6 and OMB Control Number 1902–0259.

IV. Regulatory Flexibility Act Analysis

333. The Regulatory Flexibility Act of 1980 (RFA) [231] generally requires a description and analysis of Proposed Rules that will have a significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[232] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[233]

NOPR Proposal

334. In the NOPR, the Commission estimated that approximately 418 of the 1,730 registered transmission owners, generator owners and distribution service providers may fall within the definition of small entities. Further, the Commission estimated that of the 418 small entities affected there are 50 within the NPCC region that would have to comply with the rulemaking. The Commission contemplated that the rulemaking would affect more small entities in the NPCC Region than those outside NPCC because there are more elements in the NPCC region that would be added to the bulk electric system based on the new definition than elsewhere. The Commission estimated the first year affect on small entities within the NPCC region to be $39,414.[234] This figure is based on information collection costs plus additional costs for compliance.[235] The Commission estimated the average annual affect per small entity outside of NPCC will be less than for the entities within NPCC. In the NOPR, the Commission stated that it did not consider this to be a significant economic impact for either class of entities because it should not represent a significant percentage of the operating budget.

Comments

335. APPA asserts that the Commission underestimates the costs of compliance for small utilities. According to APPA, the Commission's assumption that utility staff would conduct an analysis is not merited in the case of many small entities. APPA states that many of its smaller members do not have the in-house employees and resources to conduct such reliability analyses and would have to rely on outside consultants and legal firms. Therefore, APPA estimates that the fees small utilities would pay for each of the services as follows, based on information and belief: Consulting Engineer, $225/hour; Record Keeping, $75/hour; and Legal, $500/hour. According to APPA, these increased dollar estimates alone substantially increase the burden estimates on smaller utilities to comply with the Commission's proposals. WPPC believes that the cost to satisfy transmission owner/transmission operator certification alone would be $80,000. WPPC points to one small municipally-owned utility paid $40,000 for third party expertise and review of the utility's required compliance. WPPC adds that the municipality had two staff members spend a week reviewing a modifying city policies to ensure compliance with reliability standards. WPPC points out that these costs only represent the initial subject matter review and do not include subsequent implementation, training or material purchase costs. WPPC also states that small entities have to divert employees from other tasks to compliance tasks which represents a significant burden on staffing.

336. ISO New England does not believe that the NOPR cost estimate captures the cost of physical upgrades that might be necessary on the system. The cost estimates do not reflect the true financial burden that might be borne by these smaller entities.

337. BPA is concerned that the Commission is underestimating the costs and resources associated with reliability compliance. BPA disagrees with the Commission's estimated annual costs of $39,414 for entities that are required to newly comply with Reliability Standards as a result of adopting the definition. BPA believes that the Commission's figure vastly underestimates the actual effort and costs associated with compliance. In BPA's experience with its customers, the smallest customer impact is equivalent to at least one FTE, and larger customers have indicated they have an even higher burden. BPA asserts that the Commission's estimates also overlook indirect compliance costs and their impact on small and large entities alike. BPA disagrees with the Commission's conclusion that the compliance burden is not ''a significant economic impact * * * because it should not represent a significant percentage of the operating budget.'' It is BPA's experience that implementing a fully functioning compliance program requires committed personnel, budget, and resources, which is never insignificant.

Commission Determination

338. The Commission disagrees with commenters that challenge the Commission's conclusion that the rule will not have a significant economic impact on a substantial number of small entities. We are not persuaded by APPA, BPA and ISO New England's assertions regarding how the Commission's analysis is erroneous or in what ways the Final Rule will have a significant economic impact on a substantial number of small entities. As the Commission stated in its NOPR, most transmission owners, transmission operators and transmission service providers do not fall within the definition of small entities. In addition, the requirement to comply with the definition of bulk electric system is not new. The reason for revising the definition of bulk electric system is to comply with the Commission's directives and address the technical and policy concerns expressed in Order Nos. 743 and 743–A, which NERC

[231] 5 U.S.C. 601–612 (2006).

[232] 13 CFR 121.101.

[233] 13 CFR 121.201, Sector 22, Utilities & n.1.

[234] For companies registered as more than one entity in the NERC compliance registry this figure will increase accordingly. That is, if a company is registered as a transmission owner and generator owner then the cost burden would be $78,828 ($39,414 * 2 = $78,828).

[235] We use fifty percent of the first year ''number of hours per response'' figure in the information collection statement for calculation under the assumption that smaller entities do not have complicated systems or will not have as many new elements on average as larger entities do.

accomplished by eliminating the explicit basis of authority for Regional Entity discretion in the current definition, and establishing specific threshold criteria rather than general guidelines of facilities operated or connected at or above 100 kV. Thus, while the Commission recognizes that some small entities within the NPCC territory may have an increased burden due to multiple registration classifications or increased compliance with the Reliability Standards due to the elimination of the regional discretion, the average annual affect per small entity outside of NPCC will be less than for the entities within NPCC and should not materially change. The Commission also does not consider this to be a significant economic impact for either class of entities because our estimated costs for complying with the revised definition should not represent a significant percentage of the operating budget. Further, while NYPSC and Massachusetts DPU assert that the costs for compliance will be $280 million they make no specific reference to the cost for small businesses and, as noted above, their estimate does not account for the revised language in the definition of bulk electric system and the specific inclusions and exclusions that we are approving in this Final Rule. Accordingly, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

V. Environmental Analysis

339. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[236] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. The actions in this rule fall within the categorical exclusion in the Commission's regulations for rules that are clarifying, corrective or procedural, for information gathering, analysis, and dissemination.[237] Accordingly, neither an environmental impact statement nor environmental assessment is required.

VI. Document Availability

340. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

341. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

342. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferc onlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public. referencerom@ferc.gov.*

VII. Effective Date and Congressional Notification

343. These regulations are effective March 5, 2013. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission. Commissioner Clark is not participating.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Note: Appendix A will not be published in the Code of Federal Regulations.

Appendix A—List of Commenters

American Electric Power Service Corporation (AEP)
American Municipal Power, Inc. (AMP)
American Public Power Association (APPA)
American Wind Energy Association (AWEA)
Arizona Public Service Company (Arizona Public Service)
Barrick Goldstrike Mines Inc. (Barrick)
Associated Electric Cooperative, Inc., Basin Electric Power Cooperative, Tri-State Generation and Transmission Association, Inc. (the G&T Cooperatives)
Bonneville Power Administration (BPA)
City of Alameda, California (Alameda)
City of Anaheim, California (Anaheim)
City of Redding, California (Redding)
City of Riverside, California (Riverside)
Cogeneration Association of California and the Energy Producers and Users Coalition
Consumers Energy Company (Consumers)
Dominion Resources Services, Inc. (Dominion)
Dow Chemical Company (Dow)
Duke Energy Corporation (Duke Energy)
Edison Electric Institute (EEI)
Electricity Consumers Resource Council (ELCON)
Exelon Corporation (Exelon)
Florida Reliability Coordinating Council, Midwest Reliability Organization, Northeast Power Coordinating Council, Inc., ReliabilityFirst Corporation, Southwest Power Pool Regional Entity, SERC Reliability Corporation, Texas Reliability Entity, Inc., Western Electricity Coordinating Council (the Regional Entities)
City of Holland, Michigan Board of Public Works (Holland)
Hydro One Networks Inc. and the Independent Electricity System Operator (Hydro One)
Hydro Quebec Transenergie (Hydro Quebec)
Idaho Power Company (Idaho Power)
Imperial Irrigation District (IID)
Industrial Customers of Northwest Utilities (ICNU)
Industrial Users of Utah (IUU)
International Transmission Company d/b/a ITC Transmission, Michigan Electric Transmission Company, LLC, ITC Midwest LLC and ITC Great Plains LLC (ITC)
ISO New England Inc. (ISO New England)
Kansas City Power & Light Company and KCP&L Greater Missouri (KCP&L)
Large Public Power Council (LPPC)
Massachusetts Department of Public Utilities (Massachusetts DPU)
Midwest Independent Transmission System Operator, Inc. (MISO)
MISO Transmission Owners
National Association of Regulatory Utility Commissioners (NARUC)
National Grid USA (National Grid)
National Rural Electric Cooperative Association (NRECA)
Nevada Power Company and Sierra Pacific Power Company (NV Energy)
New England States Committee on Electricity (NESCOE)
New York Independent System Operator, Inc. (NYISO)
New York State Public Service Commission (NYPSC)
North American Electric Reliability Corporation (NERC)
North Carolina Eastern Municipal Power Agency (''NCEMPA'') and North Carolina Municipal Power Agency Number 1 (''NCMPA1'') (together ''Power Agencies'')
Oglethorpe Power Corporation, Georgia Transmission Corporation and Georgia System Operations Corporation
Old Dominion Electric Cooperative (ODEC)
Occidental Energy Ventures Corp
Pennsylvania Public Utility Commission
Pepco Holdings, Inc., Potomac Electric Power Company, Delmarva Power & Light Company, Atlantic City Electric Company (PHI Companies)
Portland General Electric Company (Portland)
Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC (PSEG Companies)
SmartSenseCom, Inc. (SmartSenseCom)
Snohomish County PUD No. 1 (Snohomish)
Southern California Edison Company (SoCal Edison)

[236] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[237] 18 CFR 380.4(a)(5).

Southern Company Services, Inc. (Southern Companies)
Springfield Utility Board (Springfield)
Steel Manufacturers Association
Transmission Access Policy Study Group (TAPS)
Utility Services, Inc.
Valero Services, Inc (Valero)
Western Public Power Coalition (WPPC)
White River Electric Association, Inc. (WREA)

[FR Doc. 2012–31142 Filed 1–3–13; 8:45 am]

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H.R. 3477/P.L. 112–219
To designate the facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, as the Army First Sergeant David McNerney Post Office Building. (Dec. 28, 2012; 126 Stat. 1595)

H.R. 3783/P.L. 112–220
Countering Iran in the Western Hemisphere Act of 2012 (Dec. 28, 2012; 126 Stat. 1596)

H.R. 3870/P.L. 112–221
To designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the ''Nicky 'Nick' Daniel Bacon Post Office''. (Dec. 28, 2012; 126 Stat. 1601)

H.R. 3912/P.L. 112–222
To designate the facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, as the ''Brigadier General Nathaniel Woodhull Post Office Building''. (Dec. 28, 2012; 126 Stat. 1602)

H.R. 5738/P.L. 112–223
To designate the facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, as the ''Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex''. (Dec. 28, 2012; 126 Stat. 1603)

H.R. 5837/P.L. 112–224
To designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the ''Corporal Kyle Schneider Post Office Building''. (Dec. 28, 2012; 126 Stat. 1604)

H.R. 5954/P.L. 112–225
To designate the facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, as the ''Sergeant Leslie H. Sabo, Jr. Post Office Building''. (Dec. 28, 2012; 126 Stat. 1605)

H.R. 6116/P.L. 112–226
To amend the Revised Organic Act of the Virgin Islands to provide for direct review by the United States Supreme Court of decisions of the Virgin Islands Supreme Court, and for other purposes. (Dec. 28, 2012; 126 Stat. 1606)

H.R. 6223/P.L. 112–227
To amend section 1059(e) of the National Defense Authorization Act for Fiscal Year 2006 to clarify that a period of employment abroad by the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity is to be counted as a period of residence and physical presence in the United States for purposes of qualifying for naturalization, and for other purposes. (Dec. 28, 2012; 126 Stat. 1608)

H.J. Res. 122/P.L. 112–228
Establishing the date for the counting of the electoral votes for President and Vice President cast by the electors in December 2012. (Dec. 28, 2012; 126 Stat. 1610)

S. 1379/P.L. 112–229
D.C. Courts and Public Defender Service Act of 2011 (Dec. 28, 2012; 126 Stat. 1611)

S. 2170/P.L. 112–230
Hatch Act Modernization Act of 2012 (Dec. 28, 2012; 126 Stat. 1616)

S. 2367/P.L. 112–231
21st Century Language Act of 2012 (Dec. 28, 2012; 126 Stat. 1619)

S. 3193/P.L. 112–232
Barona Band of Mission Indians Land Transfer Clarification Act of 2012 (Dec. 28, 2012; 126 Stat. 1621)

S. 3311/P.L. 112–233
To designate the United States courthouse located at 2601 2nd Avenue North, Billings, Montana, as the ''James F. Battin United States Courthouse''. (Dec. 28, 2012; 126 Stat. 1623)

S. 3315/P.L. 112–234
GAO Mandates Revision Act of 2012 (Dec. 28, 2012; 126 Stat. 1624)

S. 3564/P.L. 112–235
Public Interest Declassification Board Reauthorization Act of 2012 (Dec. 28, 2012; 126 Stat. 1626)

S. 3642/P.L. 112–236
Theft of Trade Secrets Clarification Act of 2012 (Dec. 28, 2012; 126 Stat. 1627)

S. 3687/P.L. 112–237
To amend the Federal Water Pollution Control Act to reauthorize the Lake Pontchartrain Basin Restoration Program, to designate certain Federal buildings, and for other purposes. (Dec. 28, 2012; 126 Stat. 1628)

H.R. 5949/P.L. 112–238
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