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Rules and Regulations

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RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD

4 CFR Chapter II

Removal of Recovery Accountability and Transparency Board Regulations

AGENCY: Recovery Accountability and Transparency Board.

ACTION: Final rule.

SUMMARY: The Recovery Accountability and Transparency Board (Board) previously issued regulations pertaining to the Privacy Act of 1974, Public Information and Requests, and the Board's Official Seal. These are the only Board issued regulations codified in the Code of Federal Regulations. On September 30, 2015, the Board is required by the American Recovery and Reinvestment Act of 2009, as amended, to terminate. After that date, because the Board will cease to exist, there will be no need for the Board's regulations. Accordingly, this final rule removes the Board's regulations from the Code of Federal Regulations effective September 30, 2015.

DATES: This rule is effective September 30, 2015.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, (202) 254–7900.

SUPPLEMENTARY INFORMATION:

Background Information

Chapter II of Title 4 of the Code of Federal Regulations contains all regulations previously issued by the Board, including: (1) Regulations pertaining to the Privacy Act of 1974 in Part 200; (2) regulations pertaining to Public Information and Requests in Part 201; and (3) regulations pertaining to the Board's Official Seal in Part 202. These are the only Board issued regulations codified in the Code of Federal Regulations. Section 1530 of the Board's enabling legislation, the American Recovery and Reinvestment Act of 2009, Public Law 111–5, as amended, requires that the Board terminate on September 30, 2015. After that date, because the Board will cease to exist, there will be no need for the Board's regulations or Chapter II of Title 4 of the Code of Federal Regulations. Through this final rule, the Board's regulations and Chapter II of Title 4 are removed from the Code of Federal Regulations effective September 30, 2015.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), the Board finds good cause exists for waiving the general notice of proposed rulemaking and opportunity for public comment as to this rule. Notice and comment before the effective date are being waived because this rule and the resulting removal of the Board's regulations arise out of a matter regarding which the Board has no discretion—namely, the termination of the Board on September 30, 2015. As the Board has no discretion, public comment is unnecessary.

Executive Orders 12866 and 13563

The Board has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Orders 12866 and 13563. The Board has determined that this rule is non-significant within the meaning of Executive Order 12866. Therefore, this rule is not required to be and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

These proposed regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided by the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations impose no additional reporting and recordkeeping requirements. Therefore, clearance by the Office of Management and Budget is not required.

Federalism (Executive Order 13132)

This rule does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Congressional Review Act

The Board has determined that this rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. The rule is being submitted to both Houses of Congress and the Comptroller General in accordance with the Congressional Review Act.

List of Subjects

4 CFR Part 200

Administrative practice and procedure, Privacy, Reporting and recordkeeping requirements.

4 CFR Part 201

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements.

4 CFR Part 202

Official seal.

For the reasons set forth in the preamble and pursuant to sec. 1530, Public Law. 111–5, 123 Stat. 115 (as amended) and general rulemaking authority, the Recovery Accountability and Transparency Board amends title 4 of the Code of Federal Regulations by removing Chapter II in its entirety, consisting of parts 200, 201, and 202.

4 CFR Chapter II [Removed]

Dated: June 16, 2015.

Kathleen S. Tighe,

Chair, Recovery Accountability and Transparency Board.

[FR Doc. 2015–15359 Filed 6–23–15; 8:45 am]

BILLING CODE 6821–15–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[AMS–CN–12–0059]

Cotton Research and Promotion Program: Procedures for Conduct of Sign-up Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the rules and regulations regarding the procedures for the conduct of a sign-up period for eligible cotton producers and importers to request a continuance referendum on the 1991 amendments to the Cotton Research and Promotion Order (Order) provided in the 1990 amendments to the Cotton Research and Promotion Act (Act). The amendments update various dates, name changes, addresses, and make other administrative changes.

DATES: *Effective Date:* July 24, 2015.

FOR FURTHER INFORMATION CONTACT: Shethir M. Riva, Chief, Research and Promotion Staff, Cotton and Tobacco Program, Agricultural Marketing Service, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, telephone (540) 361–2726, facsimile (540) 361–1199, or email at *Shethir.Riva@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under § 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this rule would not have substantial and direct effects on Tribal governments and would not have significant tribal implications.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

The Cotton Research and Promotion Act (7 U.S.C. 2101–2118) (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 12 of the Act, any person subject to an order may file with the Secretary of Agriculture (Secretary) a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (importers) as having receipts of no more than $7,000,000. In 2014, an estimated 16,000 producers, and approximately 20,000 importers were subject to the order. The majority of these producers and importers are small businesses under the criteria established by the Small Business Administration.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

Only those eligible persons who are in favor of conducting a referendum would need to participate in the sign-up period. Of the 46,220 total valid ballots received in the 1991 referendum, 27,879, or 60 percent, favored the amendments to the Order, and 18,341, or 40 percent, opposed the amendments to the Order. This rule will provide those persons who are not in favor of the continuance of the Order amendments an opportunity to request a continuance referendum.

The eligibility and participation requirements for producers and importers are substantially the same as the rules that established the eligibility and participation requirements for the 1991 referendum, and for the 1997, 2001, and 2007 sign-up periods. The sign-ups in 1997, 2001, and 2007 sign-ups did not generate the required number of signatures to hold another referendum. The amendments in this action would update various dates, name changes, addresses, and make other miscellaneous changes.

The sign-up procedures would not impose a substantial burden or have a significant impact on persons subject to the Order, because participation is not mandatory, not all persons subject to the Order are expected to participate, and USDA will determine producer and importer eligibility. The information collection requirements under the Paperwork Reduction Act are minimal.

Paperwork Reduction Act

The information collections proposed by this rule will be carried out under the OMB Control Number 0581–0093. This rule will not add to the overall burden currently approved by OMB and assigned OMB Control Number 0581–0093 under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This OMB Control Number is referenced in section 1205.541 of the regulations.

Background

The 1991 amendments to the Cotton Research and Promotion Order (7 CFR part 1205) were implemented following the July 1991 referendum. The amendments were provided for in the 1990 amendments to the Cotton Research and Promotion Act (7 U.S.C. 2101–2118). These amendments provided for: (1) Importer representation on the Cotton Board by an appropriate number of persons, to be determined by USDA, who import cotton or cotton products into the U.S., and whom USDA selects from nominations submitted by importer organizations certified by USDA; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount USDA can be reimbursed for the conduct of a referendum from $200,000 to $300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

On May 29, 2013, USDA issued a determination based on its review (78 FR 32228), not to conduct a referendum regarding the 1991 amendments to the Order; however, the Act provides that USDA shall nevertheless conduct a referendum at the request of 10 percent or more of the total number of eligible producers and importers that voted in the most recent referendum. The Act provides for a sign-up period during

which eligible cotton producers and importers may request that USDA conduct a referendum on continuation of the 1991 amendments to the Order. Accordingly, USDA will provide all eligible Upland cotton producers and importers an opportunity to request a continuance referendum regarding the 1991 amendments to the Order.

Pursuant to section 8(c) of the Act, the sign-up period will be provided for all eligible producers and importers. Eligible cotton producers will be provided the opportunity to sign-up to request a continuance referendum in person at the county Farm Service Agency (FSA) office where their farm is located. If a producer's land is in more than one county, the producer shall sign-up at the county office where FSA administratively maintains and processes the producer's farm records. Producers may alternatively request a sign-up form in the mail from the same office or through the USDA, AMS Web site: *http://www.ams.usda.gov/Cotton* and return it to their FSA office or return their signed request forms to USDA, Agricultural Marketing Service, Cotton and Tobacco Program, Attention: Cotton Sign-Up, P.O. Box 23181, Washington, DC 20077–8249.

Eligible importers would be provided the opportunity to sign up to request a continuance referendum by downloading a form from the AMS Web site, or request a sign-up form by contacting *CottonRP@ams.usda.gov* or (540) 361–2726 and return their signed request forms to USDA, Agricultural Marketing Service, Cotton and Tobacco Program, Attention: Cotton Sign-Up, P.O. Box 23181, Washington, DC 20077–8249.

Such request must be accompanied by a copy of the U.S. Customs and Border Protection form 7501 showing payment of a cotton assessment for calendar year 2014. Requests and supporting documentation should be mailed to USDA, AMS, Cotton and Tobacco Program, Attention: Cotton Sign-Up, P.O. Box 23181, Washington, DC 20077–8249.

The sign-up period will be from August 3, 2015, through August 14, 2015. Producer and importer forms shall only be counted if received by USDA during the stated sign-up period.

Section 8(c)(2) of the Act provides that if USDA determines, based on the results of the sign-up, that 10 percent or more of the total number of eligible producers and importers that voted in the most recent 1991 referendum (*i.e.,* 4,622) request a continuance referendum on the 1991 amendments, a referendum will be held within 12 months after the end of the sign-up period. In counting such requests, however, not more than 20 percent may be from producers from any one state or from importers of cotton. For example, when counting the requests, the AMS Cotton and Tobacco Program would determine the total number of valid requests from all cotton-producing states and from importers. Not more than 20 percent of the total requests will be counted from any one state or from importers toward reaching the 10 percent for 4,622 total signatures required to call for a referendum. If USDA determines that 10 percent or more of the number of producers and importers who voted in the most recent referendum favor a continuance referendum, a referendum will be held.

This rule amends the procedures for the conduct of the current sign-up period. The current rules and regulations provide for sections on definitions, supervision of the sign-up period, eligibility, participation in the sign-up period, counting requests, reporting results and instructions and forms.

In §§ 1205.20, 1205.26, and 1205.27 ''calendar year 2006'' changes to ''calendar year 2014.'' Also, in § 1205.26, eligible persons are further defined to ensure that all producers that planted cotton during 2014 will be eligible to participate in the sign-up period. In §§ 1205.27, 1205.28, and 1205.29 sign-up period conduct dates, FSA reporting dates, and mailing addresses are updated. Under § 1205.27(b), AMS will post information in its Web site rather than mailing a form to each known importer. Before the start of the sign-up period, AMS will post sign-up information, including sign-up forms, on its Web site: *http://www.ams.usda.gov/Cotton.*

A proposed rule with a request for comments was published in the **Federal Register** on April 13, 2015, (80 FR 19567). In addition, AMS Cotton and Tobacco Program distributed and posted a Notice to the Trade on its Web site at: *http://www.ams.usda.gov/cotton,* under ''Cotton Research and Promotion 5-Year Review & Sign-up.'' No comments were received on the proposed rule. While AMS received no comments during the proposed rule comment period suggesting that the timeframe was insufficient, AMS identified a beneficial change and will amend the sign-up dates and FSA reporting dates to allow for a thirty-day effective date for this final rule.

This rule amends the subpart pertaining to established procedures for use during the sign-up period. Accordingly, AMS is amending the regulations as proposed in the Notice of Proposed Rulemaking with additional changes to the sign-up dates and the FSA reporting dates to take into account the effective date of this final rule.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR part 1205, subpart 1205.10 through 1205.30

For the reasons set forth in the preamble, 7 CFR part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

■ 1. The authority citation part 1205 is revised to read as follows:

Authority: 7 U.S.C. 2101–2118.

■ 2. Section 1205.20 is revised to read as follows:

§ 1205.20 Representative period.

The term *representative period* means the 2014 calendar year.

■ 3. In § 1205.26, paragraphs (a)(1) and (2) are revised to read as follows:

§ 1205.26 Eligibility.

* * * * *

(a) * * *

(1) any person who was engaged in the production of Upland cotton during calendar year 2014; and

(2) any person who was an importer of Upland cotton and imported Upland cotton in excess of the value of $2.00 per line item entry during calendar year 2014.

* * * * *

■ 4. Section 1205.27 is revised to read as follows:

§ 1205.27 Participation in the sign-up period.

The sign-up period will be from August 3, 2015, until August 14, 2015. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by August 14, 2015.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers in the county that it serves during the representative period, and AMS shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, AMS will post sign-up information, including sign-up forms,

on its Web site: *http://www.ams.usda.gov/Cotton.* Importers who favor the conduct of a continuance referendum can download a form from the Web site, or request a sign-up form by contacting *CottonRP@ams.usda.gov* or (540) 361–2726 and one will be provided to them. Importers may participate in the sign-up period by submitting a signed, written request for a continuance referendum, along with a copy of a U.S. Customs and Border Protection form 7501 showing payment of a cotton assessment for calendar year 2014. The USDA, AMS, Cotton and Tobacco Program, Attention: Cotton Sign-Up, P.O. Box 23181, Washington, DC 20077–8249 shall be considered the polling place for all cotton importers. All requests and supporting documents must be received by August 14, 2015.

(c) Each person on the county FSA office lists may participate in the sign-up period. Eligible producers must date and sign their name on the ''County FSA Office Sign-up Sheet.'' A person whose name does not appear on the county FSA office list may participate in the sign-up period. Such person must be identified on FSA–578 during the representative period or provide documentation that demonstrates that the person was a cotton producer during the representative period. Cotton producers not listed on the FSA–578 shall submit at least one sales receipt for cotton they planted during the representative period. Cotton producers must make requests to the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make request at the county office where FSA administratively maintains and processes the producer's farm records. It is the responsibility of the person to provide the information needed by the county FSA office to determine eligibility. It is not the responsibility of the county FSA office to obtain this information. If any person whose name does not appear on the county FSA office list fails to provide at least one sales receipt for the cotton they produced during the representative period, the county FSA office shall determine that such person is ineligible to participate in the sign-up period, and shall note ''ineligible'' in the remarks section next to the person's name on the county FSA office sign-up sheet. In lieu of personally appearing at a county FSA office, eligible producers may request a sign-up form from the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make the request for the sign-up form at the county office where FSA administratively maintains and processes the producer's farm records. Such request must be accompanied by a copy of at least one sales receipt for cotton they produced during the representative period. The appropriate FSA office must receive all completed forms and supporting documentation by August 14, 2015.

■ 5. In § 1205.28, the first sentence is revised to read as follows:

§ 1205.28 Counting.

County FSA offices and FSA, Deputy Administrator for Field Operations (DAFO), shall begin counting requests no later than August 14, 2015. * * *

■ 6. Section 1205.29 is revised to read as follows:

§ 1205.29 Reporting results.

(a) Each county FSA office shall prepare and transmit to the state FSA office, by August 21, 2015, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) DAFO shall prepare, by August 21, 2015, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by August 21, 2015, forward all county reports to DAFO. By August 28, 2015, DAFO shall forward its report of the total number of eligible producers and importers that requested a continuance referendum, through the sign-up period, to the Deputy Administrator, Cotton and Tobacco Program, Agricultural Marketing Service, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406.

Authority: 7 U.S.C. 2101–2118.

Dated: June 18, 2015.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2015–15423 Filed 6–23–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM15–5–000; Order No. 811]

Revised Exhibit Submission Requirements for Commission Hearings

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending Rule 508 of the Commission's Rules of Practice and Procedure to eliminate the requirement that participants in Commission trial-type evidentiary hearings must provide paper copies of all exhibits introduced as evidence. The Final Rule will facilitate a shift toward electronic hearing procedures which should improve the efficiency and administrative convenience of the Commission hearing process, reduce the burden and expense associated with paper exhibits, and facilitate the compilation and transmittal of the hearing record to the Commission in electronic format.

DATES: This rule will become effective July 24, 2015.

FOR FURTHER INFORMATION CONTACT: Karin Herzfeld, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8459.

SUPPLEMENTARY INFORMATION:

Order No. 811

Final Rule

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1. In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending Rule 508 of the Commission's Rules of Practice and Procedure [1] to eliminate the requirement that participants in Commission trial-type evidentiary hearings must provide paper copies of all exhibits introduced as evidence. The Commission is amending section 385.508 of the Commission's regulations by removing paragraph (a)(2) and redesignating paragraph (a)(3) as paragraph (a)(2). While still retaining the option to provide exhibits in paper form, the Final Rule will facilitate a shift toward electronic hearing procedures which should improve the efficiency and administrative convenience of the Commission hearing process, reduce the burden and expense associated with paper exhibits, and facilitate the compilation and transmittal of the hearing record to the Commission in electronic format.

I. Background

2. The Federal government has set a goal to substitute electronic means of communication and information storage for paper. For example, the Government Paperwork Elimination Act directed agencies to provide for the optional use and acceptance of electronic documents and signatures, and electronic record-keeping, where practical.[2] Similarly, the Office of Management and Budget (OMB) Circular A–130 required agencies to use electronic information collection techniques, where such means will reduce the burden on the public, increase efficiency, reduce costs, and help provide better service.

3. On September 21, 2000, the Commission issued Order No. 619, which implemented the use of the Internet for submission of certain documents to the Commission for filing.[3] The eFiling system plays an important role in the Commission's efforts to comply with the Government Paperwork Elimination Act's requirement that agencies provide the option to submit information electronically, when practicable, as a substitute for paper.[4] Filing via the Internet is optional for eligible documents.[5] Since issuing Order No. 619, the Commission has greatly expanded its ability to accept electronically filed material, including interventions, protests, rehearings, complaints, and applications for certificates and licenses.[6] In 2008, the Commission further implemented a system for electronic tariff filing.[7] Consistent with these prior efforts to provide electronic filing options, on March 19, 2015, the Commission issued a Notice of Proposed Rulemaking proposing to eliminate the requirement that all exhibits introduced at Commission hearings must be provided in paper form. In response to the NOPR, the Commission received comments from the New York Transmission Owners,[8] stating that they support the Commission's proposed elimination of the requirement to provide paper copies of exhibits introduced during evidentiary hearings, and that they agree with the Commission that this would improve the efficiency and administrative convenience of the Commission hearing process as well as reduce the substantial burden and expense associated with providing paper copies of exhibits.

II. Discussion

4. Section 385.508 of the Commission's regulations currently requires that ''[a]ny participant who seeks to have an exhibit admitted into evidence must provide one copy of the exhibit to the presiding officer and two copies to the reporter, not later than the time that the exhibit is marked for identification.'' [9] Under current practice, the court reporter assigns Exhibit Numbers to the paper copies and provides the paper copies to the Commission's Docket Branch to be scanned into the Commission's eLibrary system. Copies of all exhibits and motions that are not pre-filed must also be provided to all participants at the hearing.[10]

5. The administrative law judges recently adopted a revised practice for handling exhibits and creating the Exhibit List that removes the need for providing paper copies at the hearing. Under this policy, within seven days of the end of the hearing, participants must file (via eFiling) a ''Joint Exhibit List'' and each sponsoring party must file (via eFiling) the ''Official Copies'' of each exhibit that was offered into evidence and admitted or rejected.[11] Thus, it is no longer necessary or efficient to require all participants to provide the presiding judge and court reporter with paper copies of each exhibit introduced at the hearing.

6. In this Final Rule, the Commission is therefore eliminating the requirement that participants provide one paper copy of each exhibit to the presiding officer and two paper copies to the court reporter.[12] This Final Rule represents a continuation of the Commission's efforts to implement the goal of substituting electronic means of communication and information storage for paper means. The Final Rule should save resources because participants will no longer be required to make multiple paper copies of all exhibits that they intend to submit into evidence. The Final Rule also will facilitate the presiding judge's compilation and transmittal of the hearing record to the Commission in electronic format.

III. Information Collection Statement

7. Certain collections of information are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[13] OMB's regulations require OMB to approve certain information collection requirements imposed by agency rule.[14] This Final Rule does not contain any information collection requirements, as defined under section 3502(3) of the

[1] 18 CFR 385.508.

[2] 44 U.S.C. 3504.

[3] *Electronic Filing of Documents,* Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

[4] 44 U.S.C. 3504.

[5] 18 CFR 385.2001(a).

[6] *See Electronic Registration,* Order No. 891, 67 FR 52,406 (Aug. 12, 2002), FERC Stats. & Regs. ¶ 31,132 (2002); *Electronic Filing of FERC Form 1, and Elimination of Certain Designated Schedules in Form Nos. 1 and 1F,* Order No. 626, 67 FR 36,093 (May 23, 2002), FERC Stats. & Regs. ¶ 31,130 (2002); *Electronic Service of Documents,* 66 FR 50,591 (Oct. 4, 2001), FERC Stats. & Regs. ¶ 35,539 (2001); *Revised Public Utility Filing Requirements,* Order No. 2001, 67 FR 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002); *Filing Via the Internet,* Order No. 703, 72 FR 65,659 (Nov. 23, 2007), FERC Stats. & Regs. ¶ 31,259 (2007).

[7] *Electronic Tariff Filings,* Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

[8] The New York Transmission Owners consist of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Power Supply Long Island, and Rochester Gas and Electric Corporation.

[9] 18 CFR 385.508(2).

[10] 18 CFR 385.510(d).

[11] *See Notice to the Public, Procedures for Handling Exhibits and Developing the Electronic Hearing Record* (issued December 12, 2014), *http://www.ferc.gov/media/headlines/2014/2014-4/12-12-14-notice.pdf.*

All electronically-filed exhibits must comply with eFiling file format requirements. *See Filing Via the Internet,* Order No. 703, FERC Stats. & Regs. ¶ 31,259 at P 33.

For exhibits that have not previously been provided to the participants, such exhibits must still be provided to the participants at the hearing. *See* 18 CFR 385.510(d).

[12] Most participants file pre-filed testimony and exhibits electronically via the eFiling system before the hearing. The presiding judge in each case will continue to determine how participants exchange exhibits brought to the hearing. *See* 18 CFR 385.504(b)(1), (4).

[13] 44 U.S.C. 3507(d).

[14] 5 CFR 1320.12.

PRA, and compliance with the OMB regulations is thus not required.

IV. Environmental Analysis

8. 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.[15] This action has been categorically excluded under section 380.4(a)(2)(ii), addressing procedural rules.[16]

V. Regulatory Flexibility Act

9. The Regulatory Flexibility Act of 1980 (RFA) [17] generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities. This Final Rule concerns procedural matters and is expected to reduce the burden and expense associated with paper exhibits and improve the efficiency and administrative convenience of the Commission hearing process.

10. Accordingly, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities. An analysis under the RFA is not required.

VI. Document Availability

11. 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.

12. 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.

13. 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.*

VII. Effective Date and Congressional Notification

14. This Final Rule is effective July 24, 2015. 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.[18] This Final Rule is being submitted to the Senate, House, and Government Accountability Office.

List of Subjects in 18 CFR Part 385

Exhibits.

By the Commission.
Issued: June 18, 2015.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends Part 385, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 792–828c, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

■ 2. Section 385.508 is amended by revising paragraph (a) to read as follows:

§ 385.508 Exhibits (Rule 508).

(a) *General rules.* (1) Except as provided in paragraphs (b) through (e) of this section, any material offered in evidence, other than oral testimony, must be offered in the form of an exhibit.

(2) The presiding officer will cause each exhibit offered by a participant to be marked for identification.

* * * * *

[FR Doc. 2015–15431 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

[15] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[16] 18 CFR 380.4(a)(2)(ii).

[17] 5 U.S.C. 601–12.

[18] 5 U.S.C. 804(2).

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 238

Hashemite Kingdom of Jordan Loan Guarantees Issued Under the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015—Standard Terms and Conditions

AGENCY: Agency for International Development (USAID).

ACTION: Final rule.

SUMMARY: This regulation prescribes the procedures and standard terms and conditions applicable to loan guarantees to be issued for the benefit of the Hashemite Kingdom of Jordan pursuant to Section 7034(r) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015.

DATES: Effective June 23, 2015.

FOR FURTHER INFORMATION CONTACT: D. Bruce McPherson, Office of General Counsel, U.S. Agency for International Development, Washington, DC 20523–6601; tel. 202–712–1611, fax 202–216–3055.

SUPPLEMENTARY INFORMATION: Pursuant to Section 7034(r) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, Pub. L. 113–235), the United States of America, acting through the U.S. Agency for International Development, may issue certain loan guarantees applicable to sums borrowed by the Hashemite Kingdom of Jordan (the ''Borrower''), not exceeding an aggregate total of U.S. $1.5 billion in principal amount. Upon issuance, the loan guarantees shall ensure the Borrower's repayment of 100% of principal and interest due under such loans, and the full faith and credit of the United States of America shall be pledged for the full payment and performance of such guarantee obligations.

This rulemaking document is not subject to rulemaking under 5 U.S.C. 553 or to regulatory review under Executive Order 12866 because it involves a foreign affairs function of the United States. The provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply.

List of Subjects in 22 CFR Part 238

Foreign aid, Foreign relations, Guaranteed loans, Loan programs—foreign relations.

Authority and Issuance

Accordingly, a new Part 238 is added to Title 22, Chapter II, of the Code of Federal Regulations, as follows:

PART 238—HASHEMITE KINGDOM OF JORDAN LOAN GUARANTEES ISSUED UNDER THE DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2015—STANDARD TERMS AND CONDITIONS

Sec.

Authority: Sec. 7034(r) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, Pub. L. 113–235).

§ 238.1 Purpose.

The purpose of the regulations in this part is to prescribe the procedures and standard terms and conditions applicable to loan guarantees issued for the benefit of the Borrower, pursuant to section 7034(r) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, Pub. L. 113–235). The loan guarantees will be issued as provided herein pursuant to the Loan Guarantee Agreement, dated May 31, 2015, between the United States of America and the Hashemite Kingdom of Jordan (the ''Loan Guarantee Agreement''). The loan guarantee will apply to sums borrowed during a period beginning on the date that the Loan Guarantee Agreement enters into force and ending thirty days after such date, not exceeding an aggregate total of one billion five hundred million United States Dollars ($1,500,000,000) in principal amount. The loan guarantees shall ensure the Borrower's repayment of 100% of principal and interest due under such loans. The full faith and credit of the United States of America is pledged for the full payment and performance of such guarantee obligations.

§ 238.2 Definitions.

Wherever used in the standard terms and conditions set out in this part:

Applicant means a Noteholder who files an Application for Compensation with USAID, either directly or through the Fiscal Agent acting on behalf of a Noteholder.

Application for Compensation means an executed application in the form of Appendix A to this part which a Noteholder, or the Fiscal Agent on behalf of a Noteholder, files with USAID pursuant to § 238.8.

Borrower means the Hashemite Kingdom of Jordan.

Business Day means any day other than a day on which banks in New York, NY are closed or authorized to be closed or a day which is observed as a federal holiday in Washington, DC, by the United States Government.

Date of Application means the date on which an Application for Compensation is actually received by USAID pursuant to § 238.15.

Defaulted Payment means, as of any date and in respect of any Eligible Note, any Interest Amount and/or Principal Amount not paid when due.

Eligible Note(s) means [a] Note[s] meeting the eligibility criteria set out in § 238.4 issued in one or more series.

Fiscal Agency Agreement means the agreement among USAID, the Borrower and the Fiscal Agent pursuant to which the Fiscal Agent agrees to provide fiscal agency services in respect of the Note[s], a copy of which Fiscal Agency Agreement shall be made available to Noteholders upon request to the Fiscal Agent.

Fiscal Agent means the bank or trust company or its duly appointed successor under the Fiscal Agency Agreement which has been appointed by the Borrower with the consent of USAID to perform certain fiscal agency services for specified Eligible Note[s] pursuant to the terms of the Fiscal Agency Agreement.

Further Guaranteed Payments means the amount of any loss suffered by a Noteholder by reason of the Borrower's failure to comply on a timely basis with any obligation it may have under an Eligible Note to indemnify and hold harmless a Noteholder from taxes or governmental charges or any expense arising out of taxes or any other governmental charges relating to the Eligible Note in the country of the Borrower.

Guarantee means the guarantee of USAID issued pursuant to this part and Section 7034(r) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, Pub. L. 113–235).

Guarantee Payment Date means a Business Day not more than three (3) Business Days after the related Date of Application.

Interest Amount means for any Eligible Note the amount of interest accrued on the Principal Amount of such Eligible Note at the applicable Interest Rate.

Interest Rate means the interest rate borne by an Eligible Note.

Loss of Investment means, in respect of any Eligible Note, an amount in Dollars equal to the total of the:

(1) Defaulted Payment unpaid as of the Date of Application,

(2) Further Guaranteed Payments unpaid as of the Date of Application, and

(3) Interest accrued and unpaid at the Interest Rate(s) specified in the Eligible Note(s) on the Defaulted Payment and Further Guaranteed Payments, in each case from the date of default with respect to such payment to and including the date on which full payment thereof is made to the Noteholder.

Note[s] means any debt securities issued by the Borrower in one or more series.

Noteholder means the owner of an Eligible Note who is registered as such on the Note Register.

Note Register means the register of Eligible Notes required to be maintained by the Fiscal Agent.

Person means any legal person, including any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

Principal Amount means the principal amount of the Eligible Notes issued by the Borrower. For purposes of determining the principal amount of the Eligible Notes issued by the Borrower, the principal amount of each Eligible Note shall be the stated principal amount thereof.

USAID means the United States Agency for International Development or its successor.

§ 238.3 The Guarantee.

Subject to the terms and conditions set out in this part, the United States of America, acting through USAID, guarantees to Noteholders the Borrower's repayment of 100 percent of principal and interest due on each series of Eligible Notes. Under the Guarantee, USAID agrees to pay to any Noteholder compensation in Dollars equal to such

Noteholder's Loss of Investment under its Eligible Note; provided, however, that no such payment shall be made to any Noteholder for any such loss arising out of fraud or misrepresentation for which such Noteholder is responsible or of which it had knowledge at the time it became such Noteholder. The Guarantee shall apply to each Eligible Note registered on the Note Register required to be maintained by the Fiscal Agent.

§ 238.4 Guarantee eligibility.

(a) Eligible Notes only are guaranteed hereunder. Notes, in order to achieve Eligible Note status:

(1) Must be signed on behalf of the Borrower, manually or in facsimile, by a duly authorized representative of the Borrower;

(2) Must contain a certificate of authentication manually executed by a Fiscal Agent whose appointment by the Borrower is consented to by USAID in the Fiscal Agency Agreement; and

(3) Shall be approved and authenticated by USAID by either:

(i) The affixing by USAID on the Notes of a guarantee legend incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID or

(ii) The delivery by USAID to the Fiscal Agent of a guarantee certificate incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID.

(b) The authorized USAID representatives for purposes of the regulations in this part whose signature(s) shall be binding on USAID shall include the USAID Chief and Deputy Chief Financial Officer, Assistant Administrator and Deputy, Bureau for Economic Growth, Education, and Environment, Director and Deputy Director, Office of Development Credit, and such other individual(s) designated in a certificate executed by an authorized USAID Representative and delivered to the Fiscal Agent. The certificate of authentication of the Fiscal Agent issued pursuant to the Fiscal Agency Agreement shall, when manually executed by the Fiscal Agent, be conclusive evidence binding on USAID that an Eligible Note has been duly executed on behalf of the Borrower and delivered.

§ 238.5 Non-impairment of the Guarantee.

After issuance of the Guarantee, the Guarantee will be an unconditional, full faith and credit obligation of the United States of America and will not be affected or impaired by any subsequent condition or event. This non-impairment of the guarantee provision shall not, however, be operative with respect to any loss arising out of fraud or misrepresentation for which the claiming Noteholder is responsible or of which it had knowledge at the time it became a Noteholder. In particular and without limitation, the Guarantee shall not be affected or impaired by:

(a) Any defect in the authorization, execution, delivery or enforceability of any agreement or other document executed by a Noteholder, USAID, the Fiscal Agent or the Borrower in connection with the transactions contemplated by this Guarantee or

(b) The suspension or termination of the program pursuant to which USAID is authorized to guarantee the Eligible Notes.

§ 238.6 Transferability of Guarantee; Note Register.

A Noteholder may assign, transfer or pledge an Eligible Note to any Person. Any such assignment, transfer or pledge shall be effective on the date that the name of the new Noteholder is entered on the Note Register required to be maintained by the Fiscal Agent pursuant to the Fiscal Agency Agreement. USAID shall be entitled to treat the Persons in whose names the Eligible Notes are registered as the owners thereof for all purposes of the Guarantee, and USAID shall not be affected by notice to the contrary.

§ 238.7 Fiscal Agent obligations.

Failure of the Fiscal Agent to perform any of its obligations pursuant to the Fiscal Agency Agreement shall not impair any Noteholder's rights under the Guarantee but may be the subject of action for damages against the Fiscal Agent by USAID as a result of such failure or neglect. A Noteholder may appoint the Fiscal Agent to make demand for payment on its behalf under the Guarantee.

§ 238.8 Event of Default; Application for Compensation; payment.

At any time after an Event of Default, as this term is defined in an Eligible Note, any Noteholder hereunder, or the Fiscal Agent on behalf of a Noteholder hereunder, may file with USAID an Application for Compensation in the form provided in Appendix A to this part. USAID shall pay or cause to be paid to any such Applicant any compensation specified in such Application for Compensation that is due to the Applicant pursuant to the Guarantee as a Loss of Investment not later than the Guarantee Payment Date. In the event that USAID receives any other notice of an Event of Default, USAID may pay any compensation that is due to any Noteholder pursuant to the Guarantee, whether or not such Noteholder has filed with USAID an Application for Compensation in respect of such amount.

§ 238.9 No acceleration of Eligible Notes.

Eligible Notes shall not be subject to acceleration, in whole or in part, by USAID, the Noteholder or any other party. USAID shall not have the right to pay any amounts in respect of the Eligible Notes other than in accordance with the original payment terms of such Eligible Notes.

§ 238.10 Payment to USAID of excess amounts received by a Noteholder.

If a Noteholder shall, as a result of USAID paying compensation under the Guarantee, receive an excess payment, it shall refund the excess to USAID.

§ 238.11 Subrogation of USAID.

In the event of payment by USAID to a Noteholder under the Guarantee, USAID shall be subrogated to the extent of such payment to all of the rights of such Noteholder against the Borrower under the related Note.

§ 238.12 Prosecution of claims.

After payment by USAID to an Applicant hereunder, USAID shall have exclusive power to prosecute all claims related to rights to receive payments under the Eligible Notes to which it is thereby subrogated. If a Noteholder continues to have an interest in the outstanding Eligible Notes, such Noteholder and USAID shall consult with each other with respect to their respective interests in such Eligible Notes and the manner of and responsibility for prosecuting claims.

§ 238.13 Change in agreements.

No Noteholder will consent to any change or waiver of any provision of any document contemplated by the Guarantee without the prior written consent of USAID.

§ 238.14 Arbitration.

Any controversy or claim between USAID and a Noteholder arising out of the Guarantee shall be settled by arbitration to be held in Washington, DC in accordance with the then prevailing rules of the American Arbitration Association, and judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction.

§ 238.15 Notice.

Any communication to USAID pursuant to the Guarantee shall be in writing in the English language, shall refer to the Hashemite Kingdom of Jordan Loan Guarantee Number inscribed on the Eligible Note and shall be complete on the day it shall be actually received by USAID at the Office of Development Credit, Bureau for Economic Growth, Education and Environment, United States Agency for International Development, Washington, DC 20523–0030. Other addresses may be substituted for the above upon the giving of notice of such substitution to each Noteholder by first class mail at the address set forth in the Note Register.

§ 238.16 Governing Law.

The Guarantee shall be governed by and construed in accordance with the laws of the United States of America governing contracts and commercial transactions of the United States Government.

Appendix A to Part 238—Application for Compensation

United States Agency for International Development

Washington, DC 20523

Ref: Guarantee dated as of ____, 20 __:

Gentlemen: You are hereby advised that payment of $____ (consisting of $____ of principal, $____ of interest and $____ in Further Guaranteed Payments, as defined in § 238.2 of the Standard Terms and Conditions of the above-mentioned Guarantee) was due on ____, 20 ____, on $____ Principal Amount of Notes issued by Hashemite Kingdom of Jordan (the ''Borrower'') held by the undersigned. Of such amount $____ was not received on such date and has not been received by the undersigned at the date hereof. In accordance with the terms and provisions of the above-mentioned Guarantee, the undersigned hereby applies, under § 238.8 of said Guarantee, for payment of $____, representing $____, the Principal Amount of the presently outstanding Note(s) of the Borrower held by the undersigned that was due and payable on ____ and that remains unpaid, and $____, the Interest Amount on such Note(s) that was due and payable by the Borrower on ____ and that remains unpaid, and $____ in Further Guaranteed Payments,[1] plus accrued and unpaid interest thereon from the date of default with respect to such payments to and including the date payment in full is made by you pursuant to said Guarantee, at the rate of ____% per annum, being the rate for such interest accrual specified in such Note. Such payment is to be made at [state payment instructions of Noteholder].

All capitalized terms herein that are not otherwise defined shall have the meanings assigned to such terms in the Standard Terms and Conditions of the above-mentioned Guarantee.

[Name of Applicant]

By: _____

Name:

Title:

Dated:

[1] In the event the Application for Compensation relates to Further Guaranteed Payments, such Application must also contain a statement of the nature and circumstances of the related loss.

Dated: June 17, 2015.

D. Bruce McPherson,

Attorney Advisor, Office of the General Counsel, U.S. Agency for International Development.

[FR Doc. 2015–15435 Filed 6–23–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0886; FRL–9929–40–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to Allegheny County Regulations for Establishing Permit Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Air Pollution Control portion of the Allegheny County Health Department (ACHD) rules and regulations and consists of changes to the regulations establishing installation permit application and administration fees and open burning permit application fees. EPA is approving these revisions to Pennsylvania's SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on July 24, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0886. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Paul T. Wentworth, P.E. at: (215) 814–2183, or by email at *wentworth.paul@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 9, 2015 (80 FR 12374), EPA published a document in the **Federal Register** (NPR) proposing to approve the August 30, 2010 SIP revision submittal from the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP). The SIP revision pertains to the Air Pollution Control portion of ACHD's rules and regulations and consists of changes to the ACHD regulations establishing installation permit application and administration fees and open burning permit application fees. EPA received one comment on the NPR. A summary of the comment and EPA's response are provided in Section III of this document.

II. Summary of SIP Revision

The SIP revision consists of changes to ACHD regulations in Article XXI for installation permit fees and open burning permit fees, including revisions to section 2102.10, entitled ''Installation Permit Application and Administration Fees,'' and to section 2105.50, entitled ''Open Burning and Administration Fees.'' The changes replace provisions containing fixed monetary amounts for permit fees provided for installation and open burning permits in sections 2102.10 and 2105.5 with language that

provides for the Allegheny County Council to establish the amount of the given fee based on consideration of the degree of technical and regulatory difficulty in processing each type of installation permit. The revisions to Article XXI sections 2102.10 and 2105.50 include new permit fee provisions for the following permit types: Permits required by the Prevention of Significant Deterioration regulations; permits issued for new major sources and for major modifications to sources locating in or impacting a non-attainment area; permits required by existing standards, such as the New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants; permits in which ACHD establishes the Maximum Achievable Control Technology for a source; permits for any source requiring an installation permit but not subject to any of the previous requirements; and general installation permits. The specific revisions to requirements in Article XXI sections 2102.10 and 2105.50 pertaining to fees for installation and open burning permits in Allegheny County for proposed approval are explained in the NPR and will not be restated here. *See* 80 FR at 12374.

III. Public Comments and EPA Responses

EPA received one anonymous comment on the proposed approval for the Pennsylvania SIP of revisions to ACHD's regulations. A summary of the comment and our response follows.

Comment: The commenter expresses support for the action proposed by the EPA to include the revised Allegheny County regulations in the Pennsylvania SIP; however, the commenter states that in section III of the NPR, EPA's statement that section 110(a)(2)(L)(i) and (ii) requires SIPs to include fees sufficient to cover the costs of reviewing and acting upon a permit application is incorrect. The commenter points out that CAA section 110(a)(2)(L)(i) and (ii) do not require SIPs to ''include'' fees; rather 110(a)(2)(L) states SIPs must require owners and operators to ''pay'' fees. According to the commenter, if the statement EPA made was correct, it would mean that the revisions EPA is acting upon do not satisfy the requirements of section 110(a)(2)(L)(i) and (ii) because the proposed revisions remove the fixed monetary fee for certain permits and therefore the SIP would not include a fee and thus would not meet section 110(a)(2)(L)(i) and (ii). To further support the argument, the commenter cites the September 13, 2013 Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, *Guidance on Infrastructure State Implementation Plan Elements Under CAA Sections 110(a)(1) and 110(a)(2)* (Infrastructure SIP Guidance), in which EPA discusses section 110(a)(2)(L) and states that ''the fee program is not required to be part of the EPA approved SIP.''

Response: EPA appreciates the commenter's support for the action approving this SIP revision. EPA also agrees with the commenter that fee programs included in SIPs to comply with section 110(a)(2)(L) do not have to require a specific dollar amount for a permit or other approval. The Agency also agrees that the ACHD fee program provisions that we approve into the SIP today are consistent with CAA section 110(a)(2)(L). We do not agree with the commenter's characterization of the Agency's interpretation of the statute as explained below.

CAA section 110(a)(2)(L) regarding permit fee requirements for SIPs provides in pertinent part that the SIP shall ''require the owner and operator of each major stationary source to pay the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover'' the reasonable costs of reviewing and acting on permit applications and the reasonable costs of implementing and enforcing the terms and conditions of any such permits. Section 110(a)(2)(L) further requires such provisions for SIPs until the major source fee requirements are superseded with respect to such sources by EPA's approval of a fee program under Title V of the CAA.[1]

In the NPR, EPA proposed to approve for the Pennsylvania SIP certain revisions to Allegheny County's regulations which deleted fixed fees for certain required installation permits and open burning permits from the ACHD regulations and replaced such fixed fees with provisions stating that installation and open burning permit fees required for owners and operators of certain pollutant emitting stationary sources would be set by Allegheny County factoring in the degree of technical and regulatory difficulty for categories of installation permits. EPA proposed to approve the revisions as meeting requirements for permit fees in CAA section 110(a)(2)(L). In the proposal, EPA inadvertently did not include the verbatim text of CAA section 110(a)(2)(L) in providing the explanation for our proposed approval of Allegheny County's regulations. However, the revisions to sections 2102.10 and 2105.50 of Article XXI of Allegheny County's regulations satisfy CAA section 110(a)(2)(L) because the revised provisions in sections 2102.10 and 2015.50 clearly require the owner and operator of certain air pollutant-emitting sources to pay to Allegheny County, the local permitting authority, a fee sufficient to cover reasonable costs to review and act upon permit applications and reasonable costs for Allegheny County to implement and enforce permit terms and conditions. The revisions to sections 2102.10 and 2105.50 simply remove a fixed monetary fee that owners and operators of certain sources would need to pay for installation and open burning permits and replace the fixed fee with applicable criteria for Allegheny County to determine the value of the fee for owners or operators to obtain required installation and open burning permits. The provisions of Allegheny County's regulations still require the payment of a fee for certain installation and open burning permits which would meet requirements in section 110(a)(2)(L) for SIPs to include provisions for payment of such fees.

EPA is unsure of the relevance of the quote from EPA's Infrastructure SIP Guidance included in the comment. The Infrastructure SIP Guidance at pages 56–57 states: ''Currently, every state has an EPA-approved fee program under CAA Title V. However, the fee program is not required to be part of the EPA approved SIP.'' This language clearly refers to the EPA-approved fee program under CAA Title V for *operating* permits required by Title V of the CAA which *may* supersede certain requirements for SIPs to include fee requirements for permits required by the CAA. Pennsylvania has an EPA-approved Title V program and an EPA-approved Title V fee program, but the Allegheny County regulations we proposed to approve in the NPR are not part of the Pennsylvania Title V program. Sections 2102.10 and 2105.50 of Article XXI of Allegheny County's regulations relate to fees for certain installation and open burning permits which are required by Allegheny County prior to installation of certain pollutant emitting sources or open burning operations. Such permits are required by Allegheny County to implement requirements in Title I of the CAA, not Title V. These fees provide funds for Allegheny County to review, implement and enforce permits required

[1] EPA's Infrastructure SIP Guidance states that the EPA-approved title V fee program is not *required* to be included in the SIP and then refers state air agencies to EPA regional offices to address section 110(a)(2)(L) requirements for permit fee programs addressing permits required by Title I of the CAA, such as permits required upon construction or modification of certain sources.

by Title I of the CAA that are not funded under the state's Title V permit program. Thus, the language of the Infrastructure SIP Guidance included in the comment is not applicable to this action. EPA proposed in the NPR to approve the revisions to sections 2102.10 and 2105.50 of Article XXI because the regulations require owners or operators of certain stationary sources to pay permit fees as a precondition to receiving an installation or open burning permit. These regulations therefore satisfy requirements in section 110(a)(2)(L) that the SIP require owners and operators to pay the permitting authority a fee sufficient to cover reasonable costs of reviewing, acting on, implementing and enforcing permits required by the CAA, including installation or construction permits required by Title I of the CAA.

IV. Final Action

EPA is approving as a revision to the Pennsylvania SIP the August 30, 2010 SIP submittal from PADEP consisting of changes to the ACHD regulations establishing installation permit application and administration fee requirements and open burning permit application fee requirements in Allegheny County.

V. Incorporation by Reference

In this, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Allegheny County Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the Air Pollution Control portion of the Allegheny County Rules and Regulations, which revises the regulations establishing installation permit application and administration fees, as well as open burning permit application fees may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 11, 2015.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by:
■ a. Under Part B, revising the entry for ''2102.10''; and
■ b. Under Part E, subpart 5, revising the entry for ''2105.50''.

The revisions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/Subject	State effective date	EPA Approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
Part B—Permits Generally				
*	*	*	*	*
2102.10	Installation Permit Application And Administration Fees.	7/26/2009	6/24/2015 [*Insert* ***Federal Register*** *citation*].	
*	*	*	*	*
Part E—Source Emission and Operating Standards				
*	*	*	*	*
Subpart 5—Open Burning and Abrasive Blasting Sources				
2105.50 (except paragraph .50.d).	Open Burning	7/26/2009	6/24/2015 [*Insert* ***Federal Register*** *citation*].	
*	*	*	*	*

* * * * *

[FR Doc. 2015–15458 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0881; A–1–FRL–9925–88–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision updates state regulations containing ambient air quality standards (AAQS) to be consistent with EPA's national ambient air quality standards (NAAQS). The intended effect of this action is to approve these regulations into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective August 24, 2015, unless EPA receives adverse comments by July 24, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments identified by Docket ID Number EPA–R01–OAR–2014–0881, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0881,'' Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID Number EPA–R01–OAR–2014–0881. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket

materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state's submittal are available for public inspection during normal business hours, by appointment at the state environmental agency: The Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

I. What action is EPA taking?

EPA is approving a SIP revision submitted by the State of Connecticut on April 22, 2014 concerning updates to Connecticut's AAQS. The Connecticut AAQS, set out in Regulations of Connecticut State Agencies (RCSA) section 22a–174–24, were amended to be consistent with the NAAQS set out in the Code of Federal Regulations (CFR) at 40 CFR part 50. Connecticut also revised the definitions of ''ambient air quality standard'' and ''PM 10'' in RCSA subsections 22a–174–1(10) and 22a–174–1(88), respectively, and revised references to RCSA section 22a–174–24 in RCSA subsections 22a–174–3a(k)(5) and 22a–174–28(a)(5).

II. What is the background for this action?

Section 109 of the CAA directs EPA to establish NAAQS requisite to protect public health with an adequate margin of safety (primary standard) and for the protection of public welfare (secondary standard). Section 109(d)(1) of the CAA requires EPA to complete a thorough review of the NAAQS at 5-year intervals and promulgate new standards when appropriate. Additionally, Section 107 of the CAA requires the establishment of air quality control regions for the purpose of implementing the NAAQS.

On October 17, 2006 (71 FR 61144), EPA revised the primary and secondary 24-hour NAAQS for fine particulate matter ($PM_{2.5}$) to 35 micrograms per cubic meter and retained the primary and secondary 24-hour NAAQS for coarse particulate matter (PM_{10}) of 150 micrograms per cubic meter. This final rule became effective on December 18, 2006.

On March 27, 2008 (73 FR 16436), EPA revised the NAAQS for ozone, setting the level of the primary and secondary 8-hour standard to 0.075 parts per million. This final ozone standard rule became effective on May 27, 2008.

On November 12, 2008 (73 FR 66964), EPA revised the NAAQS for lead, setting the level of the primary and secondary standard to 0.15 micrograms per cubic meter and revised the averaging time to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. The final lead standard rule became effective on January 12, 2009.

On February 9, 2010 (75 FR 6474), EPA revised the NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO_2). EPA established a 1-hour primary standard for NO_2 at a level of 100 parts per billion, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing primary and secondary annual standard of 53 parts per billion (61 FR 52852, Oct 8, 1996). The final NO_2 rule became effective on April 12, 2010.

On June 22, 2010 (75 FR 35520), EPA revised the NAAQS for oxides of sulfur as measured by sulfur dioxide (SO_2). EPA established a new 1-hour SO_2 primary standard at a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA also revoked both the previous 24-hour and annual primary SO_2 standards. This final rule became effective on August 23, 2010.

On January 15, 2013 (78 FR 3086), EPA revised the primary $PM_{2.5}$ annual NAAQS, lowering the standard to 12.0 micrograms per cubic meter. The final rule became effective on March 18, 2013.

On April 22, 2014, Connecticut submitted a SIP revision to update its ambient air quality standards set out in RCSA section 22a–174–24, definitions in RCSA subsections 22a–174–1(10) and 22a–174–1(88), and references in RCSA subsections 22a–174–3a(k)(5) and 22a–174–28(a)(5).

On December 14, 2014, Connecticut withdrew RCSA subsection 22a–174–24(m), ambient air quality standard for dioxin, from its April 22, 2014 SIP submittal.

III. What is included in the submittal?

Connecticut's April 22, 2014 SIP submittal includes revised RCSA section 22a–174–24, ''Connecticut primary and secondary ambient air quality standards.'' This regulation has been revised to explicitly incorporate the new NAAQS discussed above. Specifically, Connecticut adopted the following substantive changes:

1. The sulfur dioxide primary 1-hour standard of 75 parts per billion; and
2. The PM_{10} primary and secondary annual standard of 150 micrograms per cubic meter;
3. The $PM_{2.5}$ primary annual standard of 12.0 micrograms per cubic meter;
4. The $PM_{2.5}$ secondary annual standard of 15.0 micrograms per cubic meter;
5. The $PM_{2.5}$ primary and secondary 24-hour standards of 35.0 micrograms per cubic meter;
6. The ozone primary and secondary 8-hour standards of 0.075 parts per million;
7. The nitrogen dioxide primary 1-hour standard of 100 parts per billion; and
8. The lead primary and secondary rolling 3-month average standards of 0.15 micrograms per cubic meter.

Connecticut's April 22, 2014 SIP revision also includes Connecticut's revised definitions of the terms ''ambient air quality standard'' and ''PM 10'' in RCSA section 22a–174–1, ''Definitions.'' These definitions have been revised to reference 40 CFR part 50 and 40 CFR part 50, appendix J, respectively. In addition, Connecticut's SIP submittal includes minor edits to subsection (k)(5) of RCSA section 22a–174–3a, ''Permit to Construct and Operate Stationary Sources.'' Subsection (k)(5) has been updated to reference the defined term ''AAQS.'' Finally, in Connecticut's SIP submittal, the definition of ''control period'' in

subsection (a)(5) of RCSA section 22a–174–28, ''Oxygenated gasoline,'' has been updated to reference 40 CFR part 50.

IV. EPA's Evaluation of the Submittal

Connecticut's air quality standards rule, RCSA section 22a–174–24, as well as amendments to this rule, have been previously approved into the Connecticut SIP, with the most recent approval occurring on December 13, 1985 (50 FR 50906). The other rules for which amendments were included in Connecticut's April 24, 2014 SIP revision have also been previously approved into the Connecticut SIP, with the most recent approvals occurring on May 10, 2011 (76 FR 26933) for RCSA sections 22a–174–1 and 22a–174–3a, and on September 28, 1999 (64 FR 67188) for RCSA section 22a–174–28. EPA has reviewed Connecticut's revisions to its ambient air quality standards, definitions, and references and has determined they are consistent with the federal NAAQS in 40 CFR part 50. Connecticut's revised RCSA section 22a–174–24 includes additional and more stringent air quality standards than the previous SIP-approved version of the rule. Thus, the revised RCSA section 22a–174–24 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Connecticut's revised rule into the Connecticut SIP.

V. Final Action

EPA is approving, and incorporating into the Connecticut SIP, the following regulations submitted by Connecticut on April 22, 2014: In RCSA section 22a–174–1, entitled ''Definitions,'' the amendment of subdivisions (10) and (88); in RCSA section 22a–174–3a, entitled ''Permit to Construct and Operate Stationary Sources,'' the amendment of subdivision (k)(5); RCSA section 22a–174–24, entitled ''Connecticut primary and secondary ambient air quality standards,'' with the exception of subsection (m), ''Connecticut primary ambient air quality standard for dioxin,'' which Connecticut withdrew from its SIP submittal; and in RCSA section 22a–174–28, entitled, ''Oxygenated Gasoline,'' the amendment of subdivision (a)(5).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve this SIP revision should relevant adverse comments be filed. This rule will be effective August 24, 2015 without further notice unless the Agency receives relevant adverse comments by July 24, 2015.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on *August 24, 2015* and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Regulations of Connecticut State Agencies described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *August 24, 2015.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, National ambient air quality standards, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 26, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(106) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on April 22, 2014.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies Section 22a–174–1(10) and (88), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(B) Regulations of Connecticut State Agencies Section 22a–174–3a(k)(5), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(C) Regulations of Connecticut State Agencies Section 22a–174–24, ''Connecticut primary and secondary ambient air quality standards,'' with the exceptions of subsections (a), (c), (g), (j), and (m), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(D) Regulations of Connecticut State Agencies (RCSA) Section 22a–174–28 (a)(5), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

3. In § 52.385, Table 52.385 is amended by adding new entries for existing state citations ''22a–174–1'', ''22a–174–3a'', ''22a–174–24'', and ''22a–174–28'' to read as follows:

§ 52.385—EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/Subject	Dates		**Federal Register** citation	Section 52.370	Comments/Description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–1	Definitions	04/07/14	06/24/15	[Insert **Federal Register** citation].	(c)(106) ..	Amendment of subdivisions (10) ambient air quality standard and (88) PM 10.
*	*	*	*	*	*	*
22a–174–3a	Permit to Construct and Operate Stationary Sources.	04/07/14	06/24/15	[Insert **Federal Register** citation].	(c)(106) ..	Amendment of subsection (k)(5) Ambient Monitoring.
*	*	*	*	*	*	*
22a–174–24	Connecticut primary and secondary ambient air quality standards.	04/07/14	06/24/15	[Insert **Federal Register** citation].	(c)(106) ..	All of 22a–174–24 is approved, with the exception of subsection (m) Dioxin, which Connecticut withdrew from its SIP submittal.
*	*	*	*	*	*	*
22a–174–28	SIP revision concerning Oxygenated Gasoline.	04/07/14	06/24/15	[Insert **Federal Register** citation].	(c)(106) ..	Amendment of subdivision (a)(5) Control period.
*	*	*	*	*	*	*

[FR Doc. 2015–15463 Filed 6–23–15; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0270; FRL–9929–38–Region–6]

Approval and Promulgation of Air Quality Implementation Plans; State of New Mexico; Infrastructure Requirements for the 2008 Ozone and 2010 Nitrogen Dioxide National Ambient Air Quality Standards and Interstate Transport of Fine Particulate Matter Air Pollution Affecting Visibility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) submittal from the State of New Mexico pertaining to the implementation, maintenance, and enforcement of the 2008 National Ambient Air Quality Standards (NAAQS or standards) for Ozone (O_3) and the 2010 NAAQS for Nitrogen Dioxide (NO_2). EPA is also approving the finding that the State of New Mexico meets the 2006 fine particulate matter ($PM_{2.5}$) NAAQS requirement pertaining to interstate transport of air pollution and visibility protection.

DATES: This final rule is effective on July 24, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2014–0270. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665–6454, *fuerst.sherry@epa.gov* (O_3 and NO_2 SIPs); or, (214) 665–6645, *young.carl@epa.gov* (fine particulate matter).

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

The background for today's action is discussed in detail in our March 26, 2015, proposal (80 FR 15963). In that rulemaking action, we proposed to approve (1) an August 27, 2013, SIP submittal from the State of New Mexico pertaining to the implementation, maintenance and enforcement of the 2008 ozone NAAQS, (2) a March 12, 2014, SIP submittal pertaining to the implementation, maintenance and enforcement of the 2008 nitrogen dioxide NAAQS, and; (3) that the November 27, 2012 and October 9, 2014 final SIP actions pertaining to the interstate transport requirement for visibility protection meet the requirement for the 2006 PM 2.5 NAAQS. The public comment period for the March 26, 2015, proposal (80 FR 15963) expired on April 27, 2015, and we did not receive any comments concerning our proposal. Therefore, we are finalizing our proposed action.

II. Final Action

We are approving the (1) August 27, 2013, SIP submittal from the State of New Mexico pertaining to the implementation, maintenance and enforcement of the 2008 ozone NAAQS, (2) March 12, 2014, SIP submittal pertaining to the implementation, maintenance and enforcement of the 2008 nitrogen dioxide NAAQS, and; (3) the November 27, 2012 and October 9, 2014 final SIP actions pertaining to the interstate transport requirement for visibility protection as meeting the requirement for the 2006 PM 2.5 NAAQS.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: June 11, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart GG—New Mexico

■ 2. The second table in § 52.1620(e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP'' is amended by revising the entry for ''Infrastructure for 2006 $PM_{2.5}$ NAAQS'' and adding new entries at the end for ''Infrastructure for the 2008 Ozone NAAQS'' and ''Infrastructure for the 2010 NO_2 NAAQS''.

The revision and additions reads as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
*	* *		* *	* *
Infrastructure for 2006 $PM_{2.5}$ NAAQS.	Statewide, except for Bernalillo County and Indian country.	6/12/2009	1/22/2013, (78 FR 4337)	Additional approvals on 7/9/2013, 78 FR 40966 (110(a)(2)(D)(i)(I)) and 6/24/2015, [Insert **Federal Register** citation] (110(a)(2)(D)(i)(II), visibility portion).
*	* *		* *	* *
Infrastructure for the 2008 Ozone NAAQS.	Statewide, except for Bernalillo County and Indian country.	8/27/2013	6/24/2015 [Insert **Federal Register** citation].	
Infrastructure for the 2010 NO_2 NAAQS.	Statewide, except for Bernalillo County and Indian country.	3/12/2014	6/24/2015 [Insert **Federal Register** citation].	

[FR Doc. 2015–15322 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Source Categories

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§ 63.8980 to end of part 63), revised as of July 1, 2014, on page 244, in § 63.10686, paragraph (e) is reinstated to read as follows:

§ 63.10686 What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?

* * * * *

(e) You must monitor the capture system and PM control device required by this subpart, maintain records, and submit reports according to the compliance assurance monitoring requirements in 40 CFR part 64. The exemption in 40 CFR 64.2(b)(1)(i) for emissions limitations or standards proposed after November 15, 1990 under section 111 or 112 of the CAA does not apply. In lieu of the deadlines for submittal in 40 CFR 64.5, you must submit the monitoring information required by 40 CFR 64.4 to the applicable permitting authority for approval by no later than the compliance date for your affected source for this subpart and operate according to the approved plan by no later than 180 days after the date of approval by the permitting authority.

[FR Doc. 2015–15481 Filed 6–23–15; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

Designation of Areas for Air Quality Planning Purposes

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 81 to 84, revised as of July 1, 2014, on page 150, in § 81.305, in the table entitled ''California—NO_2 (2010 1-Hour Standard)'', for the entry ''Sacramento County'', the date in the second column is removed and the entry in the third column is corrected to read ''Unclassifiable/Attainment''.

[FR Doc. 2015–15482 Filed 6–23–15; 8:45 am]

BILLING CODE 1501–05–D

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 523 and 552

[GSAR Change 64; GSAR Case 2006–G506; Docket No. 2009–0005; Sequence No. 1]

RIN 3090–A182

General Services Administration Acquisition Regulation; GSAR Case 2006–G506; Environmental, Conservation, Occupational Safety and Drug-Free Workplace

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing a final rule to amend the General Services Administration Acquisition Regulation (GSAR) to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data.

DATES: *Effective:* June 24, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Procurement Analyst, at 215–446–4860, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite GSAR Case 2006–G506.

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule in 2009 to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. A second proposed rule was issued in the **Federal Register** at 80 FR 8278, on February 17, 2015, due to the length of time since the original proposed rule was published in 2009 and updates to the regulations referenced in GSAM Subpart 523.3. No public comments were received on the proposed rule. One change was made for this final rule, which clarifies that the new GSAR clause 552.223–73 is only required in solicitations and contracts for packaged items containing hazardous materials.

II. Discussion and Analysis

The final rule changes the title of Part 523 to ''Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace,'' to correspond to the title in FAR Part 23. The title for Subpart 523.3 is changed to ''Hazardous Material Identification and Material Safety Data'' to be consistent with the corresponding FAR subpart.

In addition, this final rule adds a new hazardous materials clause, GSAR clause 552.223–73. GSAR clause 552.223–73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) For Shipments is added to require compliance by contractors regarding preservation, packaging, packing, marking, and labeling of hazardous materials. This clause is also added to the Provision and Clause Matrixes.

The GSAR provision at 552.212–72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items, is updated to include the new hazardous material clause 552.223–73.

III. Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because these changes will not substantively change the reporting, recordkeeping, or compliance requirements for contractors.

V. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 523 and 552

Government procurement.

Dated: June 17, 2015.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, GSA amends 48 CFR parts 523 and 552 as set forth below:

PART 523—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 1. Revise the authority citation for 48 CFR part 523 to read as follows:

Authority: 40 U.S.C. 121(c).

■ 2. Revise the part heading to read as set forth above.

■ 3. Revise subpart heading 523.3 to read as set forth below.

Subpart 523.3—Hazardous Material Identification and Material Safety Data

■ 4. Amend section 523.303 by revising the section heading; and adding a new paragraph (c) to read as follows:

523.303 Contract clauses.

* * * * *

(c) Insert 552.223–73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items containing hazardous materials.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. The authority citation for part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 6. Amend section 552.212–72 by revising the date of the clause and paragraph (b) to read as follows:

552.212–72 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items [JUN 2015]

* * * * *

(b) *Clauses.*

____552.223–70 Hazardous Substances.

____552.223–71 Nonconforming Hazardous Material.

____552.223–73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.
552.238–72 Identification of Products That Have Environmental Attributes.

(End of clause)

■ 7. Add section 552.223–73 to read as follows:

552.223–73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) For Shipments.

As prescribed in 523.303(c), insert the following clause:

Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) For Shipments [JUN 2015]

(a) *Definition. United States,* as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM–D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24–204, Air Force Inter-Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24–204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

(End of clause)

[FR Doc. 2015–15413 Filed 6–23–15; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130403322–4454–02]

RIN 0648–XE002

Snapper-Grouper Fishery of the South Atlantic; 2015 Commercial Accountability Measure and Closure for Atlantic Dolphin

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for Atlantic dolphin (dolphin) in the exclusive economic zone (EEZ) off the Atlantic states (Maine through the east coast of Florida) for the 2015 fishing year through this temporary rule. Commercial landings for dolphin, as estimated by the Science and Research Director, are projected to reach the commercial annual catch limit (ACL) by June 24, 2015. Therefore, NMFS closes the commercial sector for dolphin on June 24, 2015, through the remainder of the fishing year in the exclusive economic zone (EEZ) of the Atlantic. This closure is necessary to protect the dolphin resource.

DATES: This rule is effective 12:01 a.m., local time, June 24, 2015, until 12:01 a.m., local time, January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *catherine.hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery off the Atlantic states is managed under the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council, in cooperation with the Mid-Atlantic and New England Fishery Management Councils, and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for dolphin is 1,157,001 lb (524,807 kg), round weight. Under 50 CFR 622.280(a)(l)(i), NMFS is required to close the commercial sector for dolphin when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL has been reached and that the commercial sector for dolphin should close on June 24, 2015. Therefore, this temporary rule implements an AM to close the commercial sector for dolphin in the EEZ off the Atlantic states (Maine through the east coast of Florida), effective 12:01 a.m., local time June 24, 2015.

The operator of a vessel with a valid commercial vessel permit for dolphin on board must have landed and bartered, traded, or sold such species prior to 12:01 a.m., local time, June 24, 2015. During the closure, the bag and possession limits specified in 50 CFR 622.277(a)(1) apply to all harvest or possession of dolphin in or from the Atlantic EEZ. Additionally, these bag and possession limits apply in the Atlantic EEZ (Maine through the east coast of Florida) on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters. During the closure, the sale or purchase of dolphin taken from the EEZ is prohibited.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of dolphin off the Atlantic states and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.280(a)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries,

NOAA (AA), finds that the need to immediately implement this action to close the commercial sector for dolphin constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect dolphin since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: June 19, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–15510 Filed 6–19–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XD996

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2015 total allowable catch (TAC) of Atka mackerel in this area allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 20, 2015, through 2400 hrs, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2015 TAC of Atka mackerel, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 1,511 metric tons by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the CAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 18, 2015. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 19, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–15504 Filed 6–19–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 121
Wednesday, June 24, 2015

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

Animal and Plant Health Inspection Service

9 CFR Part 2

[Docket No. APHIS–2015–0033]

Petition To Amend the Reporting Requirements for Research Facilities Under the Animal Welfare Act Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service (APHIS) has received a petition requesting that we amend the regulations to require that research facilities include information about the uses of animals in the annual report they submit to APHIS. We are making this petition available to the public and soliciting comments regarding any issues raised by the petition that we should consider.

DATES: We will consider all comments that we receive on or before August 24, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0033.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0033, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The petition and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0033* 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. Carol Clarke, Research Program Manager, USDA, APHIS, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 851–3724.

SUPPLEMENTARY INFORMATION: The Animal Welfare Act (AWA, 7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing research facilities. The Secretary has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Within APHIS, the responsibility for administering the AWA has been delegated to the Deputy Administrator for Animal Care.

Regulations and standards promulgated under the AWA are contained in title 9 of the Code of Federal Regulations, parts 1, 2, and 3 (referred to collectively below as the AWA regulations). Part 1 contains definitions of terms used within parts 2 and 3. Part 2 contains licensing and registration regulations, regulations specific to research facilities, and regulations governing veterinary care, animal identification, recordkeeping, access for inspection, confiscation of animals, and handling, among other requirements. Within part 2, subpart C contains the regulations specific to research facilities.

The regulations in paragraph (a) of § 2.36 require that the reporting facility be the segment of the research facility, or that department, agency, or instrumentality of the United States, that uses or intends to use live animals in research, tests, experiments, or for teaching. Each reporting facility is required to submit an annual report[1] to the Animal Care Regional Director for the State where the facility is located on or before December 1 of each calendar year. The annual report has to be signed and certified by the chief executive officer or institutional official and cover the previous Federal fiscal year.

Under § 2.36, the annual report is required to assure that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, were used prior to, during, and following actual procedures, and that each principal investigator has considered alternatives to painful procedures. The annual report is also required to assure that the facility is adhering to the standards and regulations under the AWA. Exceptions to the standards and regulations are required to be attached to the annual report as a summary that includes a brief explanation as well as the species and number of animals affected.

In addition, the regulations require the annual report to state the location of all facilities where animals were housed or used in actual research, testing, teaching, or experimentation, or held for these purposes.

The regulations also require the annual report to include the common names and numbers of animals involved in procedures for which: (1) No pain, distress, or use of pain-relieving drugs was involved; (2) appropriate anesthetic, analgesic, or tranquilizing drugs were provided where there was accompanying pain or distress to the animals; or (3) pain and distress was involved and the use of appropriate anesthetic, analgesic, or tranquilizing drugs for relief would have adversely affected the procedures, results, or interpretation of the teaching, research, experiments, surgery, or tests. An explanation of the procedures producing pain or distress in these animals and the reasons such drugs were not used is required to be attached to the annual report.

Lastly, the annual report is required under the regulations to include the common names and numbers of animals being bred, conditioned, or held for use in teaching, testing, research, experiments, or surgery, but not yet used for such purposes.

APHIS received a petition from the National Anti-Vivisection Society (referred to below as NAVS) dated December 15, 2014. In the petition, NAVS stated that the online Animal

[1] Annual reports for the years they were issued can be viewed at: *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalwelfare/!ut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOK9_D2MDJ0MjDzd3V2dDDz93HwCzL29jAyCzYAKIvEo8DYlTrzu6OHibmPgYGBiYWRgaeLk4eLuaWvgYGnGXH6DXAARwNC-sP1o_AqAfkArACfE8EK8LihIDc0NMIg0xMAwhVB1g!!/?1dmy&urile=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Our_Focus%2FSA_Animal_Welfare%2FSA_Obtain_Research_Facility_Annual_Report%2F.*

Care Information System [2] and the APHIS annual report provide an insufficient level of detail about animals used for research. NAVS requested that we amend the AWA reporting regulations to require research facilities to provide us with information about how animals are being used for research and experimentation and that we publish this information in the annual report of research facilities. NAVS also requested that APHIS replace the current reporting form [3] used by research facilities with a template [4] comparable to that used by Member States of the European Union (EU), which provides an accounting of the numbers and types of animals, and for what specific research, testing, and educational purposes the animals are being used.

We are making this petition available to the public and soliciting comments to help determine what action, if any, to take in response to this request. The petition and any comments submitted are available for review as indicated under **ADDRESSES** above. We welcome all comments on the issues outlined in the petition. In particular, we invite responses to the following questions:

1. Should APHIS amend the regulations to require research facilities that use animals for teaching, testing, and experimentation to provide specific information about how regulated animals are used (for example, for safety testing, teaching purposes, or disease research)? Would reporting this information improve animal welfare? If so, how?

2. If research facilities were required to report the purposes of their animal research activities, what types of information should be provided, and why?

3. What might be the effects, if any, on research facilities if they are required to collect and report this additional information?

4. Does the annual reporting form currently required to be used by research facilities capture sufficient information? If not, what information is missing?

We encourage the submission of scientific data, studies, or research to support your comments and position. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments we receive.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 18th day of June 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–15499 Filed 6–23–15; 8:45 am]

BILLING CODE 3410–34–P

[2] Animal Care Information System (ACIS), accessible at: *https://acissearch.aphis.usda.gov/LPASearch/faces/Warning.jspx.*

[3] Form 7023, Annual Report of Research Facility: *http://www.aphis.usda.gov/library/forms/pdf/APHIS_7023.pdf.*

[4] The EU reporting template cited by NAVS can be viewed at *http://www.navs.org/file/APHIS-Modified-Template_121214.xls.*

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Chapter VII

Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996

AGENCY: National Credit Union Administration.

ACTION: Notice of regulatory review; request for comments.

SUMMARY: The NCUA Board (Board) is continuing its comprehensive review of its regulations to identify outdated, unnecessary, or burdensome regulatory requirements imposed on federally insured credit unions, as contemplated by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). This second decennial review of regulations began when the Board issued its first EGRPRA notice on May 22, 2014, covering the two categories of ''Applications and Reporting'' and ''Powers and Activities.'' The second notice followed, covering the three categories of ''Agency Programs,'' ''Capital,'' and ''Consumer Protection,'' which was published on December 19, 2014. The Board continues the review process with the publication of this third notice, covering the next three categories of rules: ''Corporate Credit Unions,'' ''Directors, Officers and Employees,'' and ''Money Laundering.'' This review presents a significant opportunity to consider the possibilities for burden reduction in groups of similar regulations. The Board welcomes comment on the categories, the order of review, and all other aspects of this initiative in order to maximize the review's effectiveness.

DATES: Comment must be received on or before September 22, 2015.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Regulatory Review pursuant to EGRPRA'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Ross P. Kendall, Special Counsel to the General Counsel, at the above address, or telephone: (703) 518–6562.

SUPPLEMENTARY INFORMATION: This second decennial review of regulations began when the Board issued its first EGRPRA notice on May 22, 2014, covering the two categories of ''Applications and Reporting'' and ''Powers and Activities.'' [1] The second notice followed, covering the three categories of ''Agency Programs,'' ''Capital,'' and ''Consumer Protection,'' which was published on December 19, 2014.[2]

I. Introduction

Congress enacted EGRPRA [3] as part of an effort to minimize unnecessary government regulation of financial institutions consistent with safety and soundness, consumer protection, and other public policy goals. Under EGRPRA, the appropriate federal banking agencies (Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance

[1] 79 FR 32121 (June 4, 2014)

[2] 79 FR 79763 (December 19, 2014)

[3] Pub. L. 104–208, Div. A, Title II, section 2222, 110 Stat. 3009 (1996); codified at 12 U.S.C. 3311.

Corporation; herein Agencies [4]) and the Federal Financial Institutions Examination Council (FFIEC) must review their regulations to identify outdated, unnecessary, or unduly burdensome requirements imposed on insured depository institutions. The Agencies are required, jointly or individually, to categorize regulations by type, such as ''consumer regulations'' or ''safety and soundness'' regulations. Once the categories have been established, the Agencies must provide notice and ask for public comment on one or more of these regulatory categories.

NCUA is not technically required to participate in the EGRPRA review process, since NCUA is not an ''appropriate Federal banking agency'' as specified in EGRPRA. In keeping with the spirit of the law, however, the Board has once again elected to participate in the review process. Thus, NCUA has participated along with the Agencies in the planning process, but has developed its own regulatory categories that are comparable with those developed by the Agencies. Because of the unique circumstances of federally insured credit unions and their members, the Board is issuing a separate notice from the Agencies. NCUA's notice is consistent and comparable with the Agencies' notice, except on issues that are unique to credit unions. One such unique issue, corporate credit unions, is included in this third notice.

In accordance with the objectives of EGRPRA, the Board asks the public to identify areas of its regulations that are outdated, unnecessary, or unduly burdensome. In addition to this third notice, the Board will issue one more notice for comment later on during 2015. The EGRPRA review supplements and complements the reviews of regulations that NCUA conducts under other laws and its internal policies.[5]

As the Board noted in its initial EGRPRA notice, the creation of the Consumer Financial Protection Bureau (CFPB) resulted in the transfer to it of responsibility for certain consumer protection rules that had previously been the responsibility of the Agencies and/or NCUA, such as Regulation Z and rules governing consumer privacy. Because the CFPB is not covered by EGRPRA or required to participate in this regulatory review process, the Agencies and NCUA excluded certain consumer protection regulations from the scope of the current review.[6]

EGRPRA contemplates a two-part regulatory response. First, NCUA will publish in the **Federal Register** a summary of the comments received, identifying and discussing the significant issues raised. Second, the law directs the Agencies to ''eliminate unnecessary regulations to the extent that such action is appropriate.'' As was done during the initial decennial review process, the Board anticipates that it will prepare its response separately from the Agencies, but at around the same time.

EGRPRA further requires the FFIEC to submit a report to the Congress within 30 days after NCUA and the Agencies publish the comment summary and analysis in the **Federal Register**. This report must summarize any significant issues raised by the public comments and the relative merits of those issues. The report also must analyze whether the appropriate federal financial regulator involved is able to address the regulatory burdens associated with the issues by regulation, or whether the burdens must be addressed by legislation. The FFIEC report submitted to Congress following the initial decennial EGRPRA review included an Agency section discussing banking sector issues and a separate section devoted to NCUA and credit union issues. It is likely that the FFIEC will follow a similar approach in this second decennial EGRPRA review and report process.

II. The EGRPRA Review's Special Focus

The regulatory review contemplated by EGRPRA provides a significant opportunity for the public and the Board to consider groups of related regulations and identify possibilities for streamlining. The EGRPRA review's overall focus on the totality of regulations will offer a new perspective in identifying opportunities to reduce regulatory burden. For example, the EGRPRA review may facilitate the identification of regulatory requirements that are no longer consistent with the way business is conducted and that therefore might be eliminated. Of course, reducing regulatory burden must be consistent with ensuring the continued safety and soundness of federally insured credit unions and appropriate consumer protections.

EGRPRA also recognizes that burden reduction must be consistent with NCUA's statutory mandates, many of which currently require certain regulations. One of the significant aspects of the EGRPRA review program is the recognition that effective burden reduction in certain areas may require legislative change. The Board will be soliciting comment on, and reviewing the comments and regulations carefully for, the relationship among burden reduction, regulatory requirements, and statutory mandates. This will be a key aspect of the report to Congress.

The Board views the approach of considering the relationship of regulatory and statutory change on regulatory burden, in concert with EGRPRA's provisions calling for grouping regulations by type, to provide the potential for particularly effective burden reduction. The Board believes the EGRPRA review can also significantly contribute to its on-going efforts to reduce regulatory burden. Since 1987, a formally adopted NCUA policy has required the Board to review each of its regulations at least once every three years with a view toward eliminating, simplifying, or otherwise easing the burden of each regulation.[7] Further, the Board addresses the issue of regulatory burden every time it proposes and adopts a rule. Under the Paperwork Reduction Act of 1995,[8] the Regulatory Flexibility Act,[9] and internal agency policies, NCUA examines each rulemaking to minimize the burdens it might impose on the industry and considers various alternatives.

The Board is particularly sensitive to the impact of agency rules on small institutions. In 2013, the Board formally increased the threshold for meeting the ''small'' classification to having assets of $50 million or less.[10] The Board is cognizant that each new or amended regulation has the potential for requiring significant expenditures of time, effort, and money to achieve compliance, and also that this burden can be particularly

[4] The Office of Thrift Supervision was still in existence at the time EGRPRA was enacted and was included in the listing of Agencies. Since that time, the OTS has been eliminated and its responsibilities have passed to the Agencies and the Consumer Financial Protection Bureau.

[5] Interpretive Ruling and Policy Statement (IRPS) 87–2, 52 FR 35231 (Sept. 8, 1987) as amended by IRPS 03–2, 68 FR 32127 (May 29, 2003.) (Reflecting NCUA's commitment to ''periodically update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'')

[6] In addition to rules that have been transferred to the CFPB, insured credit unions are also subject to certain other regulations that are not required to be reviewed under the EGRPRA process, such as regulations issued by the Department of the Treasury's Financial Crimes Enforcement Network. Any comment received during the EGRPRA process that pertains to such a rule will be forwarded to the appropriate agency.

[7] IRPS 87–2, 52 FR 35231 (Sept. 8, 1987) as amended by IRPS 03–2, 68 FR 32127 (May 29, 2003).

[8] 44 U.S.C. 3501 *et seq.*

[9] 5 U.S.C. 601 *et seq.*

[10] In February 2015, the Board proposed raising the threshold again, this time to $100 million. 80 FR 11954 (Mar. 5, 2015). The Board has not yet taken final action with respect to the proposal.

difficult for institutions of smaller asset size, with fewer resources available.

III. The Board's Proposed Plan

EGRPRA contemplates the categorization of regulations by ''type.'' During the initial decennial review, the Board developed and published for comment ten categories for NCUA's rules, including some that had been issued jointly with the Agencies. The Board believes these initial categories worked well for the purpose of presenting a framework for the review and so has retained them for this second review.[11] The categories, in alphabetical order, are: Agency Programs; Applications and Reporting; Capital; Consumer Protection; Corporate Credit Unions; Directors, Officers and Employees; Money Laundering; Powers and Activities; Rules of Procedure; and Safety and Soundness. As noted above, some of the rules in the consumer protection category are now under CFPB's jurisdiction and administration, and those affected rules have been eliminated. Any rules adopted for the first time since 2006 have been included in the appropriate category.[12] Rules still in proposed form are not included in this review; commenters may be sure that comments submitted directly in response to proposed rules will be given due consideration within that process.

As the Board noted during the initial decennial review, although there are other possible ways of categorizing its rules, these ten categories ''are logical groupings that are not so broad such that the number of regulations presented in any one category would overwhelm potential commenters. The categories also reflect recognized areas of industry interest and specialization or are particularly critical to the health of the credit union system.'' As was also noted during the initial review, some regulations, such as lending, pertain to more than one category and are included in all applicable categories.

The Board remains convinced that publishing its rules for public comment separately from the Agencies is the most effective method for achieving EGRPRA's burden reduction goals for federally insured credit unions. Owing to differences in the credit union system as compared to the banking system, there is not a direct, category by category, correlation between NCUA's rules and those of the Agencies. For example, credit unions deal with issues such as membership, credit union service organizations, and corporate credit unions, all of which are unique to credit union operations. Similarly, certain categories identified by the Agencies have limited or no applicability in the credit union sector, such as community reinvestment, international operations, and securities. The categories developed by the Board and the Agencies reflect these differences. The Board intends to maintain comparability with the Agencies' notices to the extent there is overlap or similarity in the issues and the categories.

After the conclusion of the comment period for each EGRPRA notice published in the **Federal Register**, the Board will review the comments it has received and decide whether further action is appropriate with respect to the categories of regulations included in that notice.

The Board has prepared two charts to assist public understanding of the organization of its review. The first chart, set forth at Section V.A. below, presents the three categories of regulations on which NCUA is requesting burden reduction recommendations in this notice. The three categories are shown in the left column. In the middle column are the subject matters that fall within the categories and in the far right column are the regulatory citations. The second chart, set forth at Section V.B. below, presents the remaining two categories in alphabetical order in a similar format.

IV. Request for Burden Reduction Recommendations About the Categories of Regulations: ''Corporate Credit Unions,'' ''Directors, Officers, and Employees,'' and ''Money Laundering''

The Board seeks public comment on regulations within the following three categories—''Corporate Credit Unions,'' ''Directors, Officers, and Employees,'' and ''Money Laundering''— that may impose outdated, unnecessary, or unduly burdensome regulatory requirements on federally insured credit unions. Comments that cite particular provisions or language, and provide reasons why such provisions should be changed, would be most helpful to NCUA's review efforts. Suggested alternative provisions or language, where appropriate, would also be helpful. If the implementation of a comment would require modifying a statute that underlies the regulation, the comment should, if possible, identify the needed statutory change.

Specific issues for commenters to consider. While all comments related to any aspect of the EGRPRA review are welcome, the Board specifically invites comment on the following issues:

- Need and purpose of the regulations. Do the regulations in these categories fulfill current needs? Has industry or other circumstances changed since a regulation was written such that the regulation is no longer necessary? Have there been shifts within the industry or consumer actions that suggest a re-focus of the underlying regulations? Do any of the regulations in these categories impose burdens not required by their authorizing statutes?
- Need for statutory change. Do the statutes impose unnecessary requirements? Are any of the statutory requirements underlying these categories redundant, conflicting or otherwise unduly burdensome? If so, how should the statutes be amended?
- Overarching approaches/flexibility of the regulatory standards. Generally, is there a different approach to regulating that the Board could use that would achieve statutory goals while imposing less burden? Do any of the regulations in these categories or the statutes underlying them impose unnecessarily inflexible requirements?
- Effect of the regulations on competition. Do any of the regulations in these categories or the statutes underlying them create competitive disadvantages for credit unions compared to another part of the financial services industry? If so, how should these regulations be amended?
- Reporting, recordkeeping and disclosure requirements. Do any of the regulations in these categories or the statutes underlying them impose particularly burdensome reporting, recordkeeping or disclosure requirements? Are any of these requirements similar enough in purpose and use so that they could be consolidated? What, if any, of these requirements could be fulfilled electronically to reduce their burden? Please provide specific recommendations.
- Consistency and redundancy. Do any of the regulations in these categories impose inconsistent or redundant regulatory requirements that are not warranted by the circumstances?
- Clarity. Are the regulations in these categories and the underlying statutes drafted in clear and easily understood language? Are there specific regulations or underlying statutes that need clarification?
- Scope of rules. Is the scope of each rule in these categories consistent with the intent of the underlying statute(s)?

[11] Consistent with EGRPRA's focus on reducing burden on insured credit unions, the Board has not included internal, organizational or operational regulations in this review. These regulations impose minimal, if any, burden on insured credit unions.

[12] Commenters should note, in this respect, that for new regulations that have only recently gone into effect, some passage of time may be necessary before the burden associated with the regulatory requirements can be fully and properly understood.

Could we amend the scope of a rule to clarify its applicability or to reduce the burden, while remaining faithful to statutory intent? If so, specify which regulation(s) should be clarified.

• Burden on small insured institutions. The Board has a particular interest in minimizing burden on small insured credit unions (those with less than $50 million in assets). NCUA solicits comment on whether any regulations within these categories should be continued without change, amended or rescinded in order to minimize any significant economic impact the regulations may have on a substantial number of small federally insured credit unions.

V.A.—Regulations About Which Burden Reduction Recommendations Are Requested Currently

Corporate Credit Unions	Corporate credit unions	12 CFR 704.
Directors, Officers, and Employees	Loans and lines of credit to officials	12 CFR 701.21(d).
	Reimbursement, insurance, and indemnification of officials and employees.	12 CFR 701.33.
	Retirement benefits for employees	12 CFR 701.19.
	Management officials interlock	12 CFR 711.
	Fidelity bond and insurance coverage	12 CFR 713.
	General authorities and duties of federal credit union directors	12 CFR 701.4.
	Golden parachutes and indemnification payments	12 CFR 750.
Money Laundering	Report of crimes or suspected crimes	12 CFR 748.1.
	Bank Secrecy Act	12 CFR 748.2.

V.B.—Categories and Regulations About Which NCUA Will Seek Comment Later

Rules of Procedure	Liquidation (involuntary and voluntary)	12 CFR 709 and 710.
	Uniform rules of practice and procedure	12 CFR 747, subpart A.
	Local rules of practice and procedure	12 CFR 747, subpart B.
Safety and Soundness	Lending	12 CFR 701.21.
	Investments	12 CFR 703.
	Supervisory committee audit	12 CFR 715.
	Security programs	12 CFR 748.0.
	Guidelines for safeguarding member information and responding to unauthorized access to member information.	12 CFR 748, Appendices A and B.
	Records preservation program and record retention appendix	12 CFR 749.
	Appraisals	12 CFR 722.
	Examination	12 CFR 741.1.
	Liquidity and contingency funding plans	12 CFR 741.12.
	Regulations codified elsewhere in NCUA's regulations as applying to federal credit unions that also apply to federally insured state-chartered credit unions.	12 CFR 741, subpart B.

By the National Credit Union Administration Board on June 18, 2015.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2015–15472 Filed 6–23–15; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1984; Directorate Identifier 2015–NM–022–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2005–01–09, which applies to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes. AD 2005–01–09 requires a one-time detailed inspection for discrepancies of the frame web and inner chords on the forward edge frame of the number 5 main entry door cutout, and corrective action if necessary. Since we issued AD 2005–01–09, additional cracking was found in the same area after completion of the one-time detailed inspection. This proposed AD would add repetitive high frequency eddy current inspections for cracking of the frame inner chords (forward and aft), and corrective action if necessary. We are proposing this AD to detect and correct discrepancies of the frame web and inner chords, which could result in cracking, subsequent severing of the frame, and consequent rapid depressurization of the airplane.

DATES: We must receive comments on this proposed AD by August 10, 2015.

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

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

• *Fax:* 202–493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1984.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1984; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1984; Directorate Identifier 2015–NM–022–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On December 27, 2004, we issued AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes. AD 2005–01–09 requires a one-time inspection for discrepancies of the frame web and inner chords on the forward edge frame of the number 5 main entry door cutout, and corrective action if necessary. AD 2005–01–09 resulted from a report of cracking of the frame web and inner chords on the forward edge frame of the number 5 main entry door. We issued AD 2005–01–09 to find and fix discrepancies of the frame web and inner chords, which could result in cracking, subsequent severing of the frame, and consequent rapid depressurization of the airplane.

Actions Since AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), Was Issued

Since we issued AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), additional cracking was found in the same area after completion of the one-time detailed inspection required by AD 2005–01–09.

Related Service Information Under 1 CFR Part 51

We reviewed and approved Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015. The service information describes procedures for a one-time detailed inspection and repetitive surface high frequency eddy current inspections of the Station 2231 frame inner chords (forward and aft), and repair of discrepancies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

Related AD

On August 16, 2013, we issued AD 2013–17–08, Amendment 39–17572 (78 FR 57053, September 17, 2013), for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes. AD 2013–17–08 requires repetitive inspections to find cracking of the web, strap, inner chords, inner chord angle of the forward edge frame of the number 5 main entry door cutouts; the frame segment between stringers 16 and 31; repair if necessary; and repetitive inspections for cracking of repairs. AD 2013–17–08 resulted from multiple reports of cracking outside of the previous inspection areas and a report of a crack that initiated at the aft edge of the inner chord rather than initiating at a fastener location. We issued AD 2013–17–08 to detect and correct such cracks, which could cause damage to the adjacent body structure and could result in depressurization of the airplane in flight.

FAA's Determination

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

Proposed AD Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), this proposed AD would retain all of the requirements. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between this Proposed AD and the Service Bulletin.'' Refer to this service information for information on the procedures and compliance times.

Difference Between This Proposed AD and the Service Bulletin

Although Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 174 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Detailed inspection	2 work-hours × $85 per hour = $170	$0	$170	$29,580.
HFEC inspections	4 work-hours × $85 per hour = $340	0	$340 per inspection cycle.	$59,160 per inspection cycle.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), and adding the following new AD:

The Boeing Company: Docket No. FAA–2015–1984; Directorate Identifier 2015–NM–022AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 10, 2015.

(b) Affected ADs

This AD replaces AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, –100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of additional cracking found in the same area after completion of the one-time detailed inspection. We are issuing this AD to detect and correct discrepancies of the frame web and inner chords, which could result in cracking, subsequent severing of the frame, and consequent rapid depressurization of the airplane.

(f) Compliance

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

(g) Inspections

Do the applicable actions specified in paragraphs (g)(1), (g)(2), (g)(3), and (g)(4) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, except as required by paragraph (h)(2) of this AD.

(1) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, do a detailed inspection for nicks, scratches, or gouges of the Station 2231 frame inner chords, forward and aft, at stringer 26 at the edge and side of the inner chords.

(2) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, except as required by paragraph (h)(1) of this AD: Do a surface high frequency eddy current (HFEC) inspection for cracks of the frame inner chords, forward and aft.

(3) Based on the findings from the inspections specified in paragraphs (g)(1) and (g)(2) of this AD, do all applicable corrective actions, before further flight.

(4) Repeat the HFEC inspection specified in paragraph (g)(2) of this AD at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015.

(h) Exceptions to Service Bulletin Specifications

(1) Where Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, specifies a compliance time ''after the release of Revision 1 of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2494, Revision 1, dated January 9, 2015, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Credit for Previous Actions

(1) This paragraph provides credit for inspections required by paragraph (g)(1) of this AD, if those inspections were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2494, dated September 18, 2003, which was incorporated by reference in AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005).

(2) This paragraph provides credit for inspections required by paragraphs (g)(1) and (g)(2) of this AD, if those inspections were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2450, Revision 7, dated November 2, 2011, which was incorporated by reference in AD 2013–17–08, Amendment 39–17572 (78 FR 57053, September 17, 2013).

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2005–01–09, Amendment 39–13933 (70 FR 1340, January 7, 2005), are approved as AMOCs for the corresponding provisions of paragraph (g)(1) of this AD.

(k) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

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

Issued in Renton, Washington, on June 12, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–15400 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1983; Directorate Identifier 2015–NM–020–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by a report of a crack of the forward leg of the left front spar lower chord and cracks on the lower wing skin at three fastener holes common to the nacelle outboard side load fitting. This proposed AD would require repetitive inspections for cracks on the front spar lower chord, inspar skin, and wing skin, and corrective action if necessary. We are proposing this AD to detect and correct fatigue cracking of the forward leg of the front spar lower chord, inspar skin, and wing skin common to the nacelle outboard side load fitting, which could adversely affect the structural integrity of the wing.

DATES: We must receive comments on this proposed AD by August 10, 2015.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2015–1983.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1983; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1983; Directorate Identifier 2015–NM–020–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report of a crack on the forward leg of the left front spar lower chord at wing buttock line (WBL) 177. The front spar lower chord was removed, repaired, and reinstalled. Upon additional inspection of the repaired spar chord installation, cracks were also discovered on the lower wing

skin at three fastener holes common to the nacelle outboard side load fitting at WBL 198.6. These cracks were identified on an airplane that had accumulated 57,617 total flight cycles. Metallurgical analysis of the chord determined that cracks initiated at fastener holes and were propagated by operating load fatigue. The analysis found no anomalies that could have contributed to the cracking. Fatigue cracking of the forward leg of the left front spar lower chord, inspar skin, and lower wing skin common to the nacelle outboard side load fitting, if not corrected, could adversely affect the structural integrity of the wing.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014. The service information describes procedures for repetitive inspections for cracks on the left and right wing front spar lower chord, inspar skin, and wing skin and corrective action if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.'' Refer to this service information for details on the procedures and compliance times.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

For Group 2 and 3 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, paragraph (h) of this proposed AD specifies repeating the detailed inspection for cracks on the left and right wing front spar lower chord and inspar skin inspection, except in areas repaired in accordance with the procedures specified in paragraph (k) of this AD.

Explanation of Required for Compliance (RC) Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The steps identified as RC (required for compliance) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as Required for Compliance (RC), the following provisions apply: (1) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

Costs of Compliance

We estimate that this proposed AD affects 331 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (28 Group 2 airplanes).	7 work-hours × $85 per hour = $595 per inspection cycle.	$0	$595 per inspection cycle.	$16,660 per inspection cycle.
Inspection and fastener installation (302 Group 3 airplanes).	Up to 94 work-hours × $85 per hour = $7,990 per inspection cycle.	0	Up to $7,990 per inspection cycle.	Up to $2,412,980 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the actions specified for the Group 1 airplane in this proposed AD.

We also have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–1983; Directorate Identifier 2015–NM–020–AD.

(a) Comments Due Date

We must receive comments by August 10, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a crack in the forward leg of the left front spar lower chord and cracks on the lower wing skin at three fastener holes common to the nacelle outboard side load fitting. We are issuing this AD to detect and correct fatigue cracking of the forward leg of the front spar lower chord, inspar skin, and wing skin common to the nacelle outboard side load fitting, which could adversely affect the structural integrity of the wing.

(f) Compliance

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

(g) Inspections and Corrective Actions for Group 1 Airplanes

For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Within 120 days after the effective date of this AD, do inspections of the left and right wing front spar lower chord and inspar skin, and the left and right wing nacelle outboard side load fitting fastener holes common to the front spar lower chord and skin, and do all applicable corrective actions, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Repetitive Detailed Inspections and Corrective Actions

For Group 2 and 3 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Except as provided by paragraph (j)(1) of this AD, at the applicable time specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, do a detailed inspection for cracks on the left and right wing front spar lower chord and inspar skin, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as specified in paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable interval specified in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except in areas repaired in accordance with the procedures specified in paragraph (k) of this AD.

(i) Repetitive High Frequency Eddy Current (HFEC) Inspections and Corrective Actions

For Group 3 airplanes identified in Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014: Except as provided by paragraph (j)(1) of this AD, at the applicable time specified in Table 2 or Table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, do the actions specified in paragraphs (i)(1) or (i)(2) of this AD. Repeat the inspection specified in either paragraph (i)(1) or (i)(2) of this AD thereafter at the applicable interval specified in Table 2 or Table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin737–57A1323, dated December 5, 2014.

(1) Do an HFEC open hole probe inspection for cracks of the left and right wing nacelle outboard side load fitting fastener holes common to the front spar lower chord and skin, and perform all applicable corrective actions, in accordance with Part 2, Option 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as provided by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight.

(2) Do an HFEC surface probe inspection for cracks in the wing inspar skin, and perform all applicable corrective actions, in accordance with Part 2, Option 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, except as provided by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight.

(j) Exceptions to Service Information Specifications

(1) Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(2) Although Boeing Alert Service Bulletin 737–57A1323, dated December 5, 2014, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization that has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (j)(2) of this AD: For service information that

contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition

(l) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

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

Issued in Renton, Washington, on June 12, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–15398 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1622; Airspace Docket No. 15–AWP–9]

Proposed Amendment of Class D and Class E Airspace; Stockton, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface, at Stockton Metropolitan Airport, Stockton, CA. After a biennial review, and the decommissioning of the Manteca VHF omnidirectional radio range and distance measuring equipment (VOR/DME), the FAA found it necessary to amend the airspace areas for the safety and management of Instrument Flight Rules (IFR) operations for Standard Instrument Approach Procedures (SIAPs) at the airport.

DATES: Comments must be received on or before August 10, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–1622; Airspace Docket No. 15–AWP–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Rob Riedl, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4534.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Stockton Metropolitan Airport, Stockton, CA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1622/Airspace Docket No. 15–AWP–9.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed

Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface at Stockton Metropolitan Airport, Stockton, CA. Decommissioning of the Manteca VOR/DME and subsequent review of the airspace revealed that airspace redesign is necessary for the safety and management of IFR operations for standard instrument approach procedures at the airport. The Class D and Class E surface areas would be expanded to within a 4.5-mile radius of Stockton Metropolitan Airport. The Class D extension to the southeast would be removed as it is no longer required for aircraft arriving and departing under IFR operations. Class E airspace extending upward from 700 feet above the surface would be modified to within a 7-mile radius of Stockton Metropolitan Airport.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000: Class D Airspace

* * * * *

AWP CA D Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(lat. 37°53′39″ N., long. 121°14′18″ W.)

That airspace extending upward from the surface to and including 2500 MSL within a 4.5 mile radius of Stockton Metropolitan Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002: Class E Airspace Designated as Surface Areas.

* * * * *

AWP CA E2 Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(lat. 37°53′39″ N., long. 121°14′18″ W.)

That airspace extending upward from the surface within a 4.5 mile radius of Stockton Metropolitan Airport.

Paragraph 6005: Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(lat. 37°53′39″ N., long. 121°14′18″ W.)
Stockton Metropolitan Airport, point in space coordinates
(lat. 37°53′04″ N., long. 121°13′18″ W.)

That airspace extending upward from the surface within a 6.5-mile radius of the Stockton Metropolitan Airport point in space coordinates at lat. 37°53′04″ N., long. 121°13′18″ W. That airspace extending upward from 1,200 feet above the surface bounded on the east by long. 120°04′04″ W., on the southeast by a line extending from lat. 37°52′00″ N., long. 120°04′04″ W.; to lat. 37°38′00″ N., long. 121°00′04″ W., on the south by lat. 37°38′00″ N., on the west by long. 121°37′04″ W., and on the north by lat. 38°07′00″ N.; excluding that airspace within Restricted Area R–2531 when active.

Issued in Seattle, Washington, on June 11, 2015.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–15281 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No.FAA–2015–1871; Airspace Docket No. 15–AGL–10]

Proposed Establishment of Class E Airspace; Iron Mountain, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Iron Mountain VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME), Iron Mountain, MI, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Minneapolis Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and efficiency of aircraft operations within the National Airspace System (NAS).

DATES: Comments must be received on or before August 10, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must

identify the docket number FAA–2015–1871/Airspace Docket No. 15–AGL–10, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–222–4075.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at the Iron Mountain VOR/DME navigation aid, Iron Mountain, MI.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1871/Airspace Docket No. 15–AGL–10.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 1,200 feet above the surface at the Iron Mountain VOR/DME navigation aid, Iron Mountain, MI. This action would contain aircraft while in IFR conditions under control of Minneapolis ARTCC by safely vectoring aircraft from en route airspace to terminal areas.

Class E airspace areas are published in Paragraph 6006 of FAA Order 7400.9Y, August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006: En Route Domestic Airspace Areas

* * * * *

AGL MI E6 Iron Mountain, MI [New]

Iron Mountain VOR/DME, MI
Lat. 45°48′58″ N., long. 088°06′44″ W.

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 47°50′56″ N., long. 089°40′18″ W.; to lat. 46°51′42″ N., long. 090°20′18″ W.; to IWD VORTAC, to IMT VOR/DME, to lat. 46°53′22″ N., long. 088°21′39″ W.; to lat. 47°01′28″ N., long. 086°59′15″ W.; to lat. 47°05′20″ N., long. 087°00′05″ W.; to lat. 47°54′59″ N., long. 088°46′22″ W., thence to the point of beginning clockwise via a 27-mile DME arc south of the YQT VOR/DME, excluding that airspace within Federal airways and within Canadian airspace.

Issued in Fort Worth, TX, on June 12, 2015

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–15459 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1869; Airspace Docket No. 15–AGL–9]

Proposed Establishment of Class E Airspace; Newberry, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Newberry VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME), Newberry, MI, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Minneapolis Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and efficiency of aircraft operations within the National Airspace System (NAS).

DATES: Comments must be received on or before August 10, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–1869/Airspace Docket No. 15–AGL–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–222–4075.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at the Newberry VOR/DME navigation aid, Newberry, MI.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1869/Airspace Docket No. 15–AGL–9.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution

System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Newberry VOR/DME navigation aid, Newberry, MI. This action would contain aircraft while in IFR conditions under control of Minneapolis ARTCC by safely vectoring aircraft from en route airspace to terminal areas.

Class E airspace areas are published in Paragraph 6006 of FAA Order 7400.9Y, August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006: En Route Domestic Airspace Areas

* * * * *

AGL MI E6 Newberry, MI [New]

Newberry VOR/DME, MI

Lat. 46°18′45″ N., long. 085°27′49″ W.

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 46°56′52″ N., long. 086°25′28″ W.; to lat. 45°44′17″ N., long. 086°27′14″ W.; to lat. 45°43′49″ N., long. 085°20′28″ W.; to lat. 46°29′29″ N., long. 084°50′40″ W.; to lat. 46°45′16″ N., long. 085°39′13″ W., thence to the point of beginning, excluding that airspace within Federal airways and within Canadian airspace.

Issued in Fort Worth, TX, on June 12, 2015.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–15470 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1649; Airspace Docket No. 15–AGL–6]

Proposed Amendment of Class D Airspace and Revocation of Class E Airspace; Columbus, Ohio State University Airport, OH, and Amendment of Class E Airspace; Columbus, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E airspace and remove Class E airspace in the Columbus, OH, area. Decommissioning of the non-directional radio beacon (NDB) and/or cancellation of NDB approaches at Ohio State University Airport, Columbus, OH, has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport. Also, the geographic coordinates of the airport, as well as the Port Columbus International Airport, will be updated.

DATES: 0901 UTC. Comments must be received on or before August 10, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–1649/Airspace Docket No. 15–AGL–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Roger Waite, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7652.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Ohio State University Airport, Columbus, OH.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–1649/Airspace Docket No. 15–AGL–6.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.* You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class D and E airspace in the Columbus, OH, area. Decommissioning of the Dan Scott NDB navigation aid and cancellation of the NDB approach at Ohio State University Airport has made this action necessary. Class E airspace designated as an extension to Class D would be removed as it is no longer required. Class E airspace extending upward from 700 feet above the surface at Port Columbus International Airport would be reconfigured due to the Dan Scott NDB decommissioning. The geographic coordinates of Ohio State University Airport and Port Columbus International Airport would be updated to coincide with the FAAs aeronautical database.

Class D and E airspace designations are published in Paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL OH D Columbus, Ohio State University Airport, OH [Amended]

Columbus, Ohio State University Airport, OH
(Lat. 40°04′47″ N., long. 83°04′23″ W.)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Ohio State University Airport, excluding that airspace within the Port Columbus International Airport, OH, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL OH E4 Columbus, Ohio State University Airport, OH [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL OH E5 Columbus, OH [Amended]

Columbus, Port Columbus International Airport, OH
(Lat. 39°59′49″ N., long. 82°53′32″ W.)
Columbus, Rickenbacker International Airport, OH
(Lat. 39°48′50″ N., long. 82°55′40″ W.)
Columbus, Ohio State University Airport, OH
(Lat. 40°04′47″ N., long. 83°04′23″ W.)
Columbus, Bolton Field Airport, OH
(Lat. 39°54′04″ N., long. 83°08′13″ W.)
Columbus, Darby Dan Airport, OH
(Lat. 39°56′31″ N., long. 83°12′18″ W.)
Lancaster, Fairfield County Airport, OH
(Lat. 39°45′20″ N., long. 82°39′26″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Port Columbus International Airport, and within 3.3 miles either side of the 094° bearing from Port Columbus International Airport extending from the 7-mile radius to 12.1 miles east of the airport, and within a 7-mile radius of Rickenbacker International Airport, and within 4 miles either side of the 045° bearing from Rickenbacker International Airport extending from the 7-mile radius to 12.5 miles northeast of the airport, and within a 6.5-mile radius of Ohio State University Airport, and within a 7.4-mile radius of Bolton Field Airport, and within a 6.4-mile radius of Fairfield County Airport, and within a 6.5-mile radius of Darby Dan Airport, excluding that airspace within the London, OH, Class E airspace area.

Issued in Fort Worth, TX, on June 8, 2015.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–15461 Filed 6–23–15; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 313

RIN 3084–AB42

Amendment to the Privacy of Consumer Financial Information Rule Under the Gramm-Leach-Bliley Act

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice of proposed rulemaking; Request for public comment.

SUMMARY: The FTC proposes to amend the Privacy of Consumer Financial Information Rule (Privacy Rule or Rule), which among other things requires that certain motor vehicle dealers provide an annual disclosure of their privacy policies to their customers by hand delivery, mail, electronic delivery, or, alternatively through a Web site, but only with the consent of the consumer. The amendment would allow motor vehicle dealers instead to notify their customers that a privacy policy is available on their Web site, under certain circumstances. The amendment would also revise the scope and definitions in this rule in light of the transfer of part of the Commission's rulemaking authority to the Consumer Financial Protection Bureau (CFPB or the Bureau) in the Dodd-Frank Wall Street Reform and Consumer Protection Act, but retains certain examples for purposes of the FTC's Safeguards Rule.

DATES: Comments must be received on or before August 31, 2015.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amendment to the Privacy of Consumer Financial Information Rule, 16 CFR part 313, Project No. R411016'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/GLBPrivacyamendment,* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Amendment to the Privacy of Consumer Financial Information Rule, 16 CFR part 313, Project No. R411016'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex E), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex E), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Steven Toporoff, (202) 326–3135, Attorney, Division of Privacy and Identity Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

The Gramm-Leach-Bliley Act (GLBA) [1] mandates that financial institutions provide their customers with initial and annual notices regarding their privacy policies. If financial institutions share certain customer information with particular types of third parties, the institutions are also required to provide an opportunity to opt out of the sharing. The Commission issued its rule implementing these provisions in 2000.[2] The Dodd-Frank Wall Street Reform and Consumer Protection Act transferred GLBA privacy notice rulemaking authority, in part, to the Bureau; however, the Commission retains rulemaking authority over any financial institution that is a motor vehicle dealer predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, as described in Section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519 (hereafter, motor vehicle dealers).

The Commission proposes to revise its Privacy Rule, 16 CFR part 313, in two ways. First, in light of the transfer of rulemaking authority for certain financial institutions to the Bureau, the Commission proposes to revise the explanation of the scope of the Rule and to tailor the examples provided in the Rule's *Definitions* section describing entities over which the Commission has retained rulemaking authority. The Commission believes that revising these provisions will eliminate extraneous information, clarify the Rule's applicability, and reduce confusion as to entities covered by the Rule. The Rule also retains several examples explaining the types of entities covered by the Safeguards Rule, 16 CFR part 314. Second, the Commission proposes to provide an alternative means for covered motor vehicle dealers to fulfill their obligation under the Privacy Rule to provide notice of their privacy policies. Under the proposal, motor vehicle dealers that do not engage in certain types of information-sharing activities would no longer be required to mail an annual privacy notice if they clearly and conspicuously convey, as

[1] 15 U.S.C. 6801 *et seq.*

[2] 65 FR 33646 (May 24, 2000).

part of another mandated or legally permissible notice or disclosure, that their privacy notice is available on their publicly accessible Web site. This proposed revision is consistent with changes made in an October 28, 2014, rulemaking by the Bureau, which has rulemaking authority over depository institutions and many non-depository institutions.[3]

The Commission believes that the proposed changes are consistent with those issued by the Bureau, and will help avoid consumer confusion and ensure that the requirements for motor vehicle dealers covered by the Rule are consistent with the GLBA's privacy provisions for other financial institutions. Such changes may also streamline the flow of information to consumers, while easing the burden on motor vehicle dealers of providing annual notices. The Commission invites comment on the proposed rule revisions generally and on the specific issues outlined throughout Section IV. In addition, the Commission requests comment on whether, and the extent to which, the FTC's Privacy Rule applicable to motor vehicle dealers should be consistent with the rule adopted by the Bureau, or if there are elements that should differ.

The Commission seeks comment on the proposal through August 17, 2015.

II. Background

A. The Statute and Regulation

The GLBA was enacted in 1999.[4] The GLBA, among other things, provides a framework for regulating the privacy practices of a broad range of entities. The GLBA requires that financial institutions provide their customers with initial and annual notices regarding their privacy policies, and allow their customers to opt out of sharing their information with certain nonaffiliated third parties. Covered entities include, for example, payday lenders, mortgage brokers, check cashers, debt collectors, real estate appraisers, certain motor vehicle dealers and remittance transfer providers.

Rulemaking authority to implement the GLBA's privacy provisions was initially spread among many agencies. The Federal Reserve Board (Board), the Office of Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) jointly adopted final rules to implement the notice requirements of the GLBA in 2000.[5] The Commission, the National Credit Union Administration (NCUA), Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC) were part of the same interagency process, but issued their rules separately.[6] In 2009, all these agencies issued a joint final rule with a model form that financial institutions could use, at their option, to provide the required initial and annual privacy disclosures.[7]

In 2011, the Dodd-Frank Act[8] transferred the GLBA's privacy notice rulemaking authority from the Board, NCUA, OCC, OTS, the FDIC, and the Commission (in part) to the Bureau. The Bureau then restated the implementing regulations in Regulation P, 12 CFR part 1016, in late 2011 (Regulation P).[9] However, under the Dodd-Frank Act, the Commission retained rulemaking authority for motor vehicle dealers described in section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519. Thus, in 2012, the Commission issued a notice that it was retaining the implementing regulations governing privacy notices for motor vehicles dealers, at 16 CFR part 313.[10]

Despite the transfer of general rulemaking authority for the Privacy Rule to the CFPB, the Commission and other agencies retained their existing enforcement authority under the GLBA.[11] In addition, the SEC and CFTC retained rulemaking authority with respect to securities and futures-related companies, respectively.[12] Accordingly, as part of this rulemaking process, the Commission has consulted and coordinated, or offered to consult, with those agencies who have rulemaking and/or enforcement authority under the GLBA, including the Bureau, SEC, CFTC and the National Association of Insurance Commissioners (NAIC).[13]

B. The Privacy Notice Requirements

As noted, the GLBA and the FTC Privacy Rule require that certain covered motor vehicle dealers provide consumers with notices describing their privacy policies. Section 503 of the GLBA and 16 CFR 313.4 require covered entities to provide an initial notice of these policies, and then ''provide a clear and conspicuous notice to customers that accurately reflects [their] privacy policies and practices *not less than annually* during the continuation of the customer relationship.'' [14]

Section 502 of the GLBA and 16 CFR 313.6(a)(6) require that initial and annual notices inform customers of their right to opt out of the sharing of nonpublic personal information with some types of nonaffiliated third parties. For example, a customer has the right to opt out of allowing a motor vehicle dealer to sell her name and address to a nonaffiliated auto insurance company. On the other hand, a motor vehicle dealer is not required to allow consumers to opt out of the dealer's sharing involving third-party service providers, joint marketing arrangements, maintenance and servicing of accounts, securitization, law enforcement and compliance, reporting to consumer reporting agencies, and certain other activities that are specified in the statute and regulation.[15] If a motor vehicle dealer limits its sharing to uses that do not trigger opt-out rights, it may provide an annual privacy notice to its customers that does not include information regarding opt-out rights.

Motor vehicle dealers also may include in the annual privacy notice information about certain consumer opt-out rights related to affiliate sharing under the FCRA. First, section 603(d)(2)(A)(iii) of the FCRA allows the sharing of a consumer's information among affiliates, but only if the consumer is notified of such sharing and is given an opportunity to opt out.[16] Section 503(c)(4) of the GLBA and the Privacy Rule generally require motor vehicle dealers to incorporate any notifications and opt-out disclosures provided pursuant to section 603(d)(2)(A)(iii) of the FCRA into their initial and annual privacy notices.[17]

Second, section 624 of the FCRA and 16 CFR 680 (the Affiliate Marketing Rule) provide that an affiliate of a motor vehicle dealer that receives certain information[18] about a consumer from the dealer may not use that information for marketing purposes, unless the consumer is provided with an opportunity to opt out of that use.[19]

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[3] 79 FR 64057 (Oct. 28, 2014).

[4] Public Law 106–102, 113 Stat. 1338 (1999).

[5] 65 FR 35162 (June 1, 2000).

[6] 65 FR 33646 (May 24, 2000) (FTC final rule); 65 FR 31722 (May 18, 2000) (NCUA final rule); 65 FR 40334 (June 29, 2000) (SEC final rule); 66 FR 21252 (Apr. 27, 2001) (CFTC final rule).

[7] 74 FR 62890 (Dec. 1, 2009).

[8] Public Law 111–203, 124 Stat. 1376 (2010).

[9] 76 FR 79025 (Dec. 21, 2011).

[10] 77 FR 22200, 22201 (April 13, 2012) (also rescinding those regulations for which rulemaking authority was transferred to the Bureau under the Dodd-Frank Act).

[11] 15 U.S.C. 6805(a).

[12] 15 U.S.C. 6804, 6809; 12 U.S.C. 1843(k)(4); 12 CFR 1016.1(b).

[13] *See* 15 U.S.C. 6804(a)(2).

[14] 16 CFR 313.5(a)(1) (emphasis added).

[15] 15 U.S.C. 6802(b)(2), 6802(e); 16 CFR 313.13, 313.14, 313.15.

[16] 15 U.S.C. 1681a(d)(2)(A)(iii).

[17] 15 U.S.C. 6803(c)(4); 16 CFR 313.6(a)(7).

[18] The type of information to which section 624 applies is information that would be a consumer report but for the exclusions provided by section 603(d)(2)(A)(i), (ii), or (iii) of the FCRA.

[19] 15 U.S.C. 1681s–3. The FTC's Affiliate Marketing Rule applies to motor vehicle dealers.

This requirement governs the *use* of information by an affiliate, not the *sharing* of information among affiliates, and thus is distinct from the affiliate sharing opt-out discussed above. The Affiliate Marketing Rule permits (but does not require) motor vehicle dealers to incorporate any opt-out disclosures provided under section 624 of the FCRA and the Affiliate Marketing Rule into the initial and annual privacy notices required by the GLBA.[20]

Finally, § 313.6(a)(8) of the Privacy Rule requires that the notices also briefly describe how motor vehicle dealers protect the nonpublic personal information they collect and maintain.

C. The Bureau Rulemaking

In December 2011, the Bureau issued a Request for Information seeking specific suggestions for streamlining regulations that were transferred to the Bureau from other Federal agencies (Streamlining RFI), including the annual privacy notice requirement.[21]

The Bureau received numerous comments from industry urging the Bureau to eliminate or reduce the annual notice requirement.[22] Industry argued that most customers ignore annual privacy notices; the content of the disclosures provides little benefit when customers have no right to opt out of information sharing; current distribution of the notices imposes significant costs; and other methods of delivery could effectively convey the information to customers at a lower cost. Industry commenters suggested that the Bureau eliminate or ease the annual notice requirement if businesses' privacy policies have not changed and they do not share nonpublic personal information beyond the exceptions allowed by the GLBA.[23] Consumer advocacy groups highlighted the benefit customers receive from printed annual privacy notices, which may remind customers of privacy rights that they may not have exercised previously.[24]

In November of 2013, the Bureau published a study assessing the effects of certain deposit regulations on financial institutions' operations.[25] This study provided operational insights from seven banks about their annual privacy notices. All seven participants provided the annual notice as a separate mailing, which resulted in higher costs for postage, materials, and labor than if the notice were mailed with other material. Some of these participants separately mailed their notices to ensure that their disclosures are ''clear and conspicuous,'' [26] even though 2009 guidance from the eight agencies promulgating the model privacy form explained that a separate mailing is not required.[27] As a result of its Streamlining RFI, study, and its outreach to industry and consumer groups, in May 2014, the Bureau issued a proposed rule to amend its Regulation P to allow financial institutions to notify consumers that a privacy notice was available online, in certain enumerated circumstances. The comment period closed on July 14, 2014. As noted above, the Bureau finalized its rulemaking in October 2014.[28]

III. The Commission's Proposed Rule Changes

A. Technical Changes To Correspond to Statutory Changes

The Commission adopted the scope and definitions in the existing Privacy Rule at a time when it had rulemaking authority for the Privacy Rule over a broader group of non-bank ''financial institutions'' as defined by the GLBA. While the Dodd-Frank Act did not change the Commission's *enforcement* authority for the privacy notice obligations of the GLBA, the Dodd-Frank Act amended the Commission's *rulemaking* authority under the GLBA such that its Privacy Rule only applies to motor vehicle dealers. For other types of financial institutions over which the Commission has enforcement authority under the GLBA, the Commission now enforces the Bureau's Regulation P. The amendments in the Dodd-Frank Act necessitate certain technical revisions to the Privacy Rule to ensure that the regulation is consistent with the text of the amended GLBA.[29] Specifically, the Commission proposes to modify the Scope and Definitions section of the Privacy Rule to provide clearer guidance to financial institutions that are covered motor vehicle dealers.

Although the Dodd-Frank Act altered the Commission's rulemaking authority with respect to the Privacy Rule, it did not alter the Commission's rulemaking authority for the GLBA's Standards for Safeguarding Customer Information, at 16 CFR part 314 (the Safeguards Rule). For the Safeguards Rule, the Commission continues to have rulemaking authority over a broad range of non-bank financial institutions. The Safeguards Rule, however, incorporates by reference the definitions contained in the Privacy Rule, including all of the examples of financial institutions listed in the existing Privacy Rule.[30] Accordingly, the Commission proposes to change the Privacy Rule definitions to make clear that, for the purpose of the Privacy Rule, the only examples applicable in the definitions are those related to motor vehicle dealers; for the purpose of the Safeguards Rule, however, all existing examples in the Privacy Rule continue to apply.

B. Changes to the Annual Privacy Notice

The Commission also proposes changes to the Privacy Rule provisions governing how motor vehicle dealers should deliver annual privacy notices. These changes are consistent with changes adopted by the Bureau for those financial institutions subject to the Bureau's rulemaking authority. Under certain limited circumstances, these changes to the Privacy Rule would allow motor vehicle dealers to convey clearly and conspicuously—through another mandated or legally permissible notice or disclosure—that their privacy notice is available on their Web site (hereafter, the alternative delivery method).[31] If, however, a motor vehicle dealer has made changes to its privacy practices or shares its customers' nonpublic personal information with nonaffiliated third parties, the dealer

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See 77 FR 22200. The FTC also enforces the Bureau's Regulation V's Affiliate Marketing Rule, 12 CFR part 1022, subpart C, for other entities over which it has enforcement authority under the FCRA.

[20] 16 CFR 680.23(b).

[21] 76 FR 75825, 75828 (Dec. 5, 2011).

[22] 79 FR 27214 at 27217 (May 14, 2014) (Bureau Notice of Proposed Rulemaking).

[23] *Id.*

[24] *Id.*

[25] Consumer Financial Protection Bureau, ''*Understanding the Effects of Certain Deposit Regulations on Financial Institutions' Operations: Findings on Relative Costs for Systems, Personnel, and Processes at Seven Institutions*'' (Nov. 2013), *available at http://files.consumerfinance.gov/f/201311_cfpb_report_findings-relative-costs.pdf.* Information collected for the study may be used to assist the Bureau in its investigations of ''the effects of a potential or existing regulation on the business decisions of providers.'' OMB Information Request—Control Number: 3170–0032.

[26] 15 U.S.C. 6803 (In its initial and annual privacy notices ''a financial institution shall provide a clear and conspicuous disclosure . . . .''); 12 CFR 1016.3(b)(1) and 16 CFR 313.3(b)(1) (both defining ''clear and conspicuous'' as ''reasonably understandable and designed to call attention to the nature and significance of the information in the notice.'').

[27] *See* 74 FR 62890, 62897–62898.

[28] 79 FR 64057 (Oct. 28, 2014).

[29] 15 U.S.C. 6804(1)(C).

[30] 16 CFR 314.2(a).

[31] Because this disclosure must be provided annually, the proposal satisfies the statutory requirement that motor vehicle dealers provide annual notices about their privacy practices. Beyond the requirement to provide the notice annually, the GBLA allows agencies to prescribe the method of delivery. *See* 15 U.S.C. 6803(a) (The GLBA allows annual notice to be delivered ''in writing or in electronic form or other form permitted by the regulations . . .'').

generally could not avail itself of this alternative delivery method.[32]

The Commission anticipates that use of the alternative delivery method that meets the requirements discussed below could inform customers of their motor vehicle dealer's privacy policies effectively and at a lower cost than the current widespread method of mailing annual privacy notices. The cost savings could benefit both consumers and businesses.[33]

The Commission has also considered the potential impact of its proposed rule change on consumer privacy. The proposal would not affect the actual collection or use of consumers' nonpublic personal information by motor vehicle dealers, and consumers would continue to get the information and opt-out rights they are entitled to under the statute. Moreover, the proposal would enable consumers to review a motor vehicle dealer's policy at her own convenience any time during the year. For example, a motor vehicle dealer choosing to use the alternative method would have to post the privacy notice continuously on its Web site, thus enabling consumers to access the privacy notice throughout the year rather than having to wait for an annual mailing.

IV. Section-by-Section Analysis

Section 313.1(b)—Scope

Section 313.1(b) outlines the scope of the Privacy Rule. The existing Rule describes the types of entities to which the Privacy Rule was applicable prior to the enactment of the Dodd-Frank Act. Those entities included—but were not limited to—financial institutions such as ''payday'' lenders, mortgage brokers, check cashers, and tax preparation firms, but did not include entities that were subject to the rulemaking authority of another agency.[34] With the exception of motor vehicle dealers, the entities formerly subject to 16 CFR part 313 are now subject to the Bureau's Regulation P.[35]

The Commission seeks to revise the Privacy Rule to make clear that it applies only to motor vehicle dealers. Accordingly, the Commission proposes to revise § 313.1(b) to remove examples of entities to which the FTC's Privacy Rule no longer applies. The Commission also proposes to remove the reference in the Privacy Rule's scope to ''other persons.'' Although the Commission continues to have enforcement authority over ''other persons'' covered by the CFPB's rule, the Commission no longer has rulemaking authority for the Privacy Rule over ''other persons.'' In addition, the Commission proposes to eliminate from § 313.1(b) the note indicating that: (1) The Privacy Rule does not modify, limit, or supersede the standards under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and (2) if a financial institution that is an institution of higher education is in compliance with the Federal Educational Rights and Privacy Act (FERPA) and its implementing regulations, such institution shall be deemed in compliance with 16 CFR part 313. The Commission believes it unlikely that this note is applicable to motor vehicle dealers but requests comment as to whether motor vehicle dealers ever engage in practices that require them to comply with HIPAA or FERPA. In addition, the Commission invites general comment on the proposed changes to the description of the scope of the Privacy Rule.

Section 313.3—Definitions

The *Definitions* section of the Privacy Rule includes a number of examples designed to provide guidance regarding the scope of terms used in the Privacy Rule. The Commission proposes to revise these definitions so that they provide accurate guidance regarding the Rule's scope. Specifically, the Commission proposes to revise § 313.3 to make clear that certain examples in five definitions are not applicable to motor vehicle dealers for purposes of the Privacy Rule but continue to apply for purposes of the Safeguards Rule. Similarly, the Commission proposes to revise the definition of ''*you,*'' which currently includes entities to which the Privacy Rule no longer applies.

First, for purposes of the Privacy Rule, proposed § 313.3(e)(2) no longer includes, as examples of ''*consumers,*'' those consumers seeking financial advisory services[36] or consumers with which the financial institution has a relationship related to a trust.[37] The examples are retained for purposes of the Safeguards Rule, 16 CFR part 314.

Second, for purposes of the Privacy Rule, proposed § 313.3(i)(2) no longer includes, as examples of a ''*continuing relationship*'' with a customer, a relationship in which the financial institution holds an investment product for the consumer;[38] enters into an agreement to arrange or broker a home mortgage loan;[39] provides financial, investment, or economic advisory services to a consumer;[40] provides tax preparation or credit counseling services;[41] provides career counseling for seeking employment with a financial institution or a financial, accounting or audit department of a company;[42] purchases an account, on which the consumer has an obligation, from another financial institution;[43] or provides real estate settlement services.[44] The examples are retained for purposes of the Safeguards Rule.

Third, for purposes of the Privacy Rule, proposed § 313.3(i)(2) no longer includes, as examples of ''*no continuing relationship*'' with a customer, a relationship in which the financial institution sells airline tickets[45] or sells checks for a personal checking account.[46] The examples are retained for purposes of the Safeguards Rule.

Fourth, for purposes of the Privacy Rule, proposed § 313.3(k)(2) no longer includes, as examples of ''*financial institutions,*'' retailers that extend credit by issuing their own credit cards to consumers; career counselors specializing in finance, accounting or audit employment; businesses that print and sell checks; businesses that regularly wire money to and from consumers; check cashing businesses; accountants or other tax preparation services that are in the business of completing tax returns; businesses that operate travel services in connection with financial services; businesses providing real estate settlement services; mortgage brokers, or investment advisory companies and credit counseling services.[47] The examples are retained for purposes of the Safeguards Rule.

Fifth, for purposes of the Privacy Rule, proposed § 313.3(k)(5) no longer includes as examples of ''*entities that are not significantly engaged in financial activities,*'' retailers that only extend credit via occasional ''lay away'' and deferred payment plans; merchants

[32] A motor vehicle dealer may use the alternative delivery method if such sharing does not trigger GLBA opt-out rights as set forth in Parts 313.13, 313.14, and 313.15.

[33] *See* 79 FR at 27218; 79 FR at 64061.

[34] *See* 15 U.S.C. 6804 (2010).

[35] The Commission retains enforcement authority over such entities for violations of the Bureau's Regulation P. 15 U.S.C. 6805(a)(7).

[36] 16 CFR 313.3(e)(2)(iii).

[37] 16 CFR 313.3(e)(2)(vi) and (vii).

[38] 16 CFR 313.3(i)(2)(i)(D). The Privacy Rule requires motor vehicle dealers to provide an annual notice while there is a continuing relationship between the dealer and the customer.

[39] 16 CFR 313.3(i)(2)(i)(E). This subsection has been revised to remove the portion of the example relating to home mortgage loans but retains the portion relating to credit to purchase a vehicle.

[40] 16 CFR 313.3(i)(2)(i)(G).

[41] 16 CFR 313.3(i)(2)(i)(H).

[42] 16 CFR 313.3(i)(2)(i)(I).

[43] 16 CFR 313.3(i)(2)(i)(J).

[44] 16 CFR 313.3(i)(2)(i)(K).

[45] 16 CFR 313.3(i)(2)(ii)(C).

[46] 16 CFR 313.3(i)(2)(ii)(E).

[47] 16 CFR 313.3(k)(2)(E)(i), (iv)–(xii).

that allow individuals to ''run a tab''; or grocery stores that allow individuals to cash checks or write checks for a higher amount than a purchase and obtain cash back.[48] The examples are retained for purposes of the Safeguards Rule. The Commission invites comment regarding whether any of the examples that the Commission proposes to eliminate for purposes of the Privacy Rule are applicable to motor vehicle dealers. The Commission also seeks comment regarding the examples that remain for purposes of the Privacy Rule in the definitions of proposed § 313.3 and the applicability of such examples to motor vehicle dealers.

The existing Privacy Rule generally defines ''*you*'' as a financial institution over which the Commission has enforcement jurisdiction under the GLBA. Because this definition refers to the Commission's enforcement authority rather than its rulemaking authority, the definition is overbroad in light of the amendments to the GLBA discussed above. Therefore, the Commission proposes to revise the definition of ''*you*'' so that for purposes of the Privacy Rule it applies to only those entities over which the Commission has rulemaking authority. For purposes of the Safeguards Rule, the definition of ''*you*'' remains unchanged.

The Commission requests comment on the proposed changes to the definition of ''*you*.'' The Commission notes that the purpose of the changes to the Privacy Rule scope and definitions serve solely to conform the Privacy Rule to the revisions in the Dodd-Frank Act as to the scope of the Commission's rulemaking authority. These changes do not reflect any change in the Commission's authority to enforce the Privacy Rule or Regulation P.

Section 313.9—Delivering Privacy and Opt-Out Notices

Section 313.9(a) of the Rule requires that motor vehicle dealers provide initial and annual privacy notices so that each consumer ''can reasonably be expected'' to receive actual notice in writing or, if the consumer agrees, electronically. Section 313.9(b) provides examples of delivery methods that would result in reasonable expectation of actual notice, including hand delivery and delivery by mail. The examples also include posting on a Web site for customers who: (1) Conduct transactions electronically, and (2) acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service.[49] Section 313.9(c) further allows delivery of the *annual* notice through a Web site, but only if a customer uses the dealer's Web site to access financial products and services and consents to receive notices at the Web site.[50] Below, the Commission describes proposed changes to § 313.9(c) that would allow motor vehicle dealers to utilize an alternative delivery method for the annual notices. In some circumstances, motor vehicle dealers could substitute their annual privacy notices with a clear and conspicuous disclosure—as part of an account statement, coupon book, or other legally-required or permitted notice or disclosure—stating that their privacy notice is available on their Web site and will be mailed to the customer on request. As required by the GLBA, this substitute disclosure would have to be provided at least annually.

The Commission seeks information concerning the effect on customer privacy rights if motor vehicle dealers were to use the alternative delivery method rather than their current delivery methods. Relatedly, the Commission requests comment on how often customers currently read annual privacy notices under the Privacy Rule and how frequently the notices would be read if they were provided pursuant to the proposed alternative delivery method. The Commission further requests comment on whether the proposed alternative delivery method would be effective in reducing the burden on motor vehicle dealers of mailing hard copy privacy notices. In particular, the Commission requests information regarding how many annual privacy notices motor vehicle dealers provide.

Lastly, the Commission notes that the current Rule prescribes certain circumstances under which motor vehicle dealers can provide privacy notices electronically or via online posting. For example, the Rule allows covered entities to provide notices electronically if the consumer agrees or to provide notice online if the consumer is required to acknowledge receipt of the notice. *See* 16 CFR 313.9. The Commission invites comment regarding how often privacy notices are delivered electronically or posted online under the existing Rule and whether companies that currently provide notices electronically will likely experience cost savings under the proposed new rule requirements.

9(c)(2) Alternative Method for Providing Certain Annual Notices

9(c)(2)(i)

Proposed § 313.9(c)(2)(i) describes the circumstances under which a motor vehicle dealer may use the alternative delivery method summarized above.[51]

9(c)(2)(i)(A)

Proposed § 313.9(c)(2)(i)(A) would set forth the first condition for using the alternative delivery method: That the motor vehicle dealer must not share the customer's information with nonaffiliated third parties in a manner that triggers the opt-out requirement under the GLBA. Thus, for example, a motor vehicle dealer may use the alternative delivery method if it shares the customer's information with nonaffiliated third parties as permitted by §§ 313.13 (for joint marketing), 313.14 (for processing and servicing transactions), and 313.15 (with consent, or for security purposes, fraud prevention, legal purposes or fiduciary purposes). It may not use the alternative delivery method, for example, if it shares the customer's nonpublic personal information with a nonaffiliated insurance company for marketing purposes. The Commission believes the alternative delivery method will generally reduce the burden of compliance for motor vehicle dealers, while still mandating the use of the current delivery method to ensure that customers have direct notice of their opt-out rights, where they exist.

The Commission invites comment on the number of motor vehicle dealers that would not be able to take advantage of the alternative delivery method because they share data with nonaffiliated third parties. The Commission further invites comment on whether customers with opt-out rights pursuant to the Privacy Rule should continue to receive the annual privacy notice pursuant to the current delivery method or if motor vehicle dealers should be able to utilize the proposed alternative delivery method for such customers.

9(c)(2)(i)(B)

Proposed § 313.9(c)(2)(i)(B) would set forth the second condition for using the alternative delivery method for the annual privacy notice: That the motor vehicle dealer not include on its annual notice an opt-out under section

[48] 16 CFR 313.3(k)(4)(iii) and (iv).

[49] 16 CFR 313.9(b).

[50] 16 CFR 313.9(c).

[51] Existing § 313.9(c) would be redesignated as § 313.9(c)(1) and its subparagraphs redesignated as § 313.9(c)(1)(i) and (ii), respectively, to accommodate the new addition. The Commission is also proposing to add a heading to new paragraph (c)(1) for technical reasons.

603(d)(2)(A)(iii) of the FCRA.[52] As discussed above, FCRA section 603(d)(2)(A)(iii) allows sharing of certain consumer information with affiliates, but only if the motor vehicle dealer provides the consumer with notice and an opportunity to opt out of the information sharing. Although this is a requirement of the FCRA, section 503(b)(4) of the GLBA and § 313.6(a)(7) of the Privacy Rule require a motor vehicle dealer's privacy notice to include any opt-out rights provided under section 603(d)(2)(A)(iii) of the FCRA. Accordingly, to the extent that a motor vehicle dealer shares customer information with affiliates for marketing purposes, thus triggering the obligation to include an opt-out pursuant to FCRA section 603(d)(2)(A)(iii), the motor vehicle dealer cannot take advantage of the alternative delivery method.[53] As noted above, the Commission believes that directly reminding consumers of any opt-out rights at least annually will be important for consumers. This is true regardless whether the opt-out right is provided under the GLBA or the FCRA.

The Commission invites comment on the extent to which different motor vehicle dealers provide a FCRA section 603(d)(2)(A)(iii) opt-out and thus would be precluded from using the proposed alternative delivery method. The Commission further invites comment as to whether customers with opt-out rights under this section of the FCRA benefit from receiving the annual privacy notice pursuant to the current delivery method or could receive the notice via the proposed alternative delivery method.

9(c)(2)(i)(C)

Proposed § 313.9(c)(2)(i)(C) would contain the third condition for using the alternative delivery method, related to the requirements of section 624 of the FCRA [54] and the Affiliate Marketing Rule, 16 CFR part 680. FCRA section 624, as implemented by the Affiliate Marketing Rule, provides that a person may not use certain information about a consumer that it receives from an affiliate to market to that consumer unless the consumer receives notice and the opportunity to opt out of such marketing.[55]

In contrast to the FCRA section 603(d)(2)(A)(iii) notice and opt-out right concerning affiliate *sharing,* which is generally required to be included on the GLBA annual privacy notice, the FCRA section 624 (and Affiliate Marketing Rule) notice and opt-out right concerning *marketing* by affiliates is not required to be included on that notice. However, the Affiliate Marketing Rule notice and opt-out right *may* be included on the privacy notice.[56]

The Commission proposes—under § 313.9(c)(2)(i)(C)—that a motor vehicle dealer that is required to provide a notice and opt out under the Affiliate Marketing Rule may use the alternative delivery method, provided that the motor vehicle dealer has previously satisfied the Affiliate Marketing Rule requirements or does not use the annual privacy notice as the sole means of providing notice to customers of that opt-out right.[57] Alternatively, the motor vehicle dealer could continue to use the current delivery method and include the Affiliate Marketing opt-out on the annual privacy notice, with no separate notice required.

The Commission invites comment on the extent to which motor vehicle dealers include the Affiliate Marketing Rule opt-out on their Privacy Rule privacy notices and thus would be precluded from using the proposed alternative delivery method. The Commission further invites comment on whether imposing this condition on using the alternative delivery method is beneficial to consumers.

9(c)(2)(i)(D)

Proposed § 313.9(c)(2)(i)(D) would present the fourth condition for using the alternative delivery method: That the substantive information a motor vehicle dealer is required to convey on its annual privacy notice has not changed since the immediately previous privacy notice (whether initial, annual, or revised) to the customer.[58] The Commission believes that the current delivery method is likely less useful if the customer has already received a privacy notice, and the motor vehicle dealer's sharing practices remain generally unchanged since that previous notice. Proposed § 313.9(c)(2)(i)(D) lists the specific disclosures of the privacy notice that must not change in order for a motor vehicle dealer to take advantage of the alternative delivery method. They are:

- The categories of nonpublic personal information that the motor vehicle dealer collects (§ 313.6(a)(1) and (a)(4));
- the categories of nonpublic personal information that the motor vehicle dealer discloses (§ 313.6(a)(2));
- the categories of affiliates and nonaffiliated third parties to whom the motor vehicle dealer discloses nonpublic personal information, other than to parties that administer or enforce transactions, service or process financial products, or maintain or service accounts, under § 313.14 and to parties for security, fraud prevention, legal purposes, or similar purposes under § 313.15 (§ 313.6(a)(3));
- if the motor vehicle dealer discloses nonpublic personal information to a nonaffiliated third party for joint marketing as set forth under § 313.13, a separate statement of the categories of information disclosed and the categories of third parties to whom the disclosures were made (§ 313.6(a)(5));
- the motor vehicle dealer's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information (§ 313.6(a)(8)); and
- the description of the purpose for sharing with service providers and other entities that conduct fraud prevention, security, or similar services (§ 313.6(a)(9)).

The Commission emphasizes that a motor vehicle dealer would be precluded from using the alternative delivery method only if it made substantive changes to the information disclosed on the previous written notice sent to the consumer. Stylistic changes in the wording of the notice that do not denote a change in practices would not prevent a motor vehicle dealer from using the alternative delivery method. Nor would the proposed section prohibit a motor vehicle dealer from using the alternative delivery method if the dealer eliminated categories of information it disclosed or categories of

[52] 15 U.S.C. 1681a(d)(2)(A)(iii).

[53] *See* 64 FR 35162, 35176 (June 1, 2000).

[54] 15 U.S.C. 1681s–3.

[55] 16 CFR 680.21(a).

[56] 16 CFR 680.23(b).

[57] Certain requirements for the Affiliate Marketing notice and opt out differ, depending on whether it is included as part of the model privacy notice or issued separately. Where a motor vehicle dealer includes the Affiliate Marketing notice and opt-out on the model privacy notice, that opt-out must be of indefinite duration. *See* Appendix A to Part 313 at C.2(d)(6). In contrast, where a motor vehicle dealer provides the Affiliate Marketing notice and opt-out separately, the Affiliate Marketing Rule allows the opt-out to be offered for as little as five years, subject to renewal, and the disclosure of the duration of the opt-out must be included on the notice. *See* 16 CFR 680.22(b). 16 CFR 680.23(a)(1)(iv). Because inclusion of the Affiliate Marketing opt-out on the model privacy notice requires a motor vehicle dealer to honor the opt-out indefinitely, a motor vehicle dealer that also offers the opt-out right separately in order to use the alternative delivery method would be able to comply with both the Privacy Rule and the Affiliate Marketing Rule by stating in the separate Affiliate Marketing notice that the opt-out is of indefinite duration and by honoring such opt-out requests indefinitely.

[58] Note that information disclosed pursuant to § 313.6(a)(6) and (a)(7) is not included in proposed § 313.9(c)(2)(i)(D) because if those situations apply, a motor vehicle dealer could not use the alternative delivery method under proposed § 313.9(c)(2)(i)(A) and (B), as discussed above.

third parties to whom it disclosed information. Any other substantive change to its information sharing practices would preclude use of the alternative delivery method; however, the motor vehicle dealer could use the alternative delivery method to meet its next annual privacy notice requirement if it first sent a revised privacy notice pursuant to the standard delivery requirements.

The Commission invites comment about the effect on customers of conditioning availability of the alternative delivery method on there being no change from the previous year's notice. The Commission further invites comment on how often motor vehicle dealers change their privacy notice such that they would be precluded from using the proposed alternative delivery method. Lastly, the Commission invites comment on the extent to which a motor vehicle dealer's changing its data security policy should preclude it, like financial institutions covered by Regulation P, from using the proposed alternative delivery method.

9(c)(2)(i)(E)

The last condition for use of the alternative delivery method, which would be set forth in proposed § 313.9(c)(2)(i)(E), requires that the motor vehicle dealer use the model privacy form for its annual privacy notice. Currently, the Privacy Rule does not require use of the model notice because the statute under which it was promulgated only required that regulators give financial institutions the *option* to use such a model notice.[59]

However, the Commission proposes to permit use of the alternative delivery method only if a motor vehicle dealer uses the model privacy form for its annual privacy notice. This approach would likely incentivize use of the model notice, which consumer research has shown to be effective in communicating information.[60] The Commission does not believe that the one-time burden of creating a model notice will place an undue burden on motor vehicles dealers, who will likely be able to save costs by not sending annual privacy notices.

The Commission notes that the model form accommodates information that may be required by state or international law, as applicable, in a box called ''Other important information.'' [61] Accordingly, the Commission expects that a motor vehicle dealer that has additional privacy disclosure obligations pursuant to state or international law would still be able to use the model form in order to take advantage of the proposed alternative delivery method. The Commission invites comment on related state or international law requirements and their interaction with the model privacy notice, as well as the proposed condition on the alternative delivery method in general.

The Commission contemplates that adoption of the model privacy form may require changes to the wording and layout of the privacy notice, but not to the information conveyed. Thus, adoption of the model notice would not constitute a change to the prior year's notice that would preclude use of the alternative delivery method under proposed § 313.9(c)(2)(i)(D).[62] The Commission solicits comment on this issue. The Commission further invites comment on the extent to which motor vehicle dealers currently use the model privacy notice, and if they do not, whether they would choose to adopt it in order to take advantage of the proposed alternative delivery method. Lastly, the Commission invites comment on the benefit to customers of receiving the model privacy notice rather than a privacy notice in a non-standard format.

Finally, the Commission generally invites comment on the conditions in proposed § 313.9(c)(2)(i)(A) through (E) and whether any of those conditions should not be required or whether other conditions should be added.

9(c)(2)(ii)

Proposed § 313.9(c)(2)(ii) sets forth the mechanics of the alternative delivery method for annual notices.

9(c)(2)(ii)(A)

Proposed § 313.9(c)(2)(ii)(A) would set forth the first component of the alternative delivery method: that a motor vehicle dealer inform the customer of the availability of the annual privacy notice on its Web site. Under this proposed subsection, a motor vehicle dealer must clearly and conspicuously convey, not less than annually—on an account statement, coupon book, or notice or disclosure the institution is required or expressly permitted to use under any other provision of law—three pieces of information: (1) That its privacy notice has not changed, (2) that the notice is available on its Web site, and (3) that a hard copy of the notice will be mailed to customers if they call to request one.

Proposed § 313.9(c)(2)(ii)(A) states that this notice must be ''clear and conspicuous,'' which is defined as meaning ''reasonably understandable'' and ''designed to call attention to the nature and significance of the information.'' [63] The Commission believes that the existing examples in § 313.3(b)(2)(i) and (ii) for the ''reasonably understandable'' and ''designed to call attention'' requirements likely would provide sufficient guidance on ways to make the notice clear and conspicuous. For example, the Rule states that, if the notice is combined with other information, it must contain ''distinctive type size, style, and graphic devices, such as shading or sidebars.'' [64]

Although the Commission proposes to require that motor vehicle dealers convey this ''notice of availability'' not less than annually, they may elect to convey it more often (*e.g.,* quarterly or monthly). The Commission invites comment on whether the approach used for notice of availability for motor vehicle dealers should differ from that for the financial institutions covered by Regulation P. In particular, the Commission is interested in comment on: (1) Whether the proposed example notice of availability would make the alternative delivery method more feasible for motor vehicle dealers to implement, (2) whether the illustrative elements not specifically required by the Rule should be so required, and (3) whether the proposed language would be effective in informing customers of the availability of the privacy notice.

As noted, proposed § 313.9(c)(2)(ii)(A) would require the notice of availability to be conveyed on an account statement, coupon book, or notice or disclosure the motor vehicle dealer is required or expressly and specifically permitted to issue under any other provision of law. An account statement would include periodic statements or billing statements. A coupon book refers to a book of payment coupons typically included with an installment loan. The Commission believes customers are likely to read account statements or coupon books that directly concern the status of their account.

A ''notice or disclosure the institution is required or expressly and specifically permitted to issue under any other provision of law'' would include

[59] 15 U.S.C. 6803.

[60] 74 FR 62890, 62891 (Dec. 1, 2009).

[61] Appendix A to Part 313 at C(3)(c).

[62] In a somewhat analogous situation, the agencies that promulgated the model privacy notice explained: ''Adoption of the model form, with no change in policies or practices, would not constitute a revised notice [for purposes of the rule section on revised privacy notices], although institutions may elect to consider the format change as revision, at their option.'' 74 FR 62890, 62907 n. 196.

[63] 16 CFR 313.3(b)(1).

[64] 16 CFR 313.3(b)(2)(ii)(E).

disclosures that are expressly and specifically permitted by law, even if not required. This language builds on the language used in the Affiliate Marketing Rule, which provides that ''a notice required by this subpart may be coordinated and consolidated with any other notice or disclosure required to be issued under any other provision of law. . . .'' [65] The Commission notes that a notice of availability would not satisfy the proposed rule requirement if included on advertising materials that were neither required nor specifically permitted by law. The Commission invites comment on the benefits and costs of requiring the notice of availability to be included on an account statement, coupon book, or document required or expressly and specifically permitted under any other provision of law. The Commission further requests comment as to the best documents on which to place the notice of availability, particularly in light of what consumers are likely to read.

The Commission further notes that where two or more motor vehicle dealers provide a joint privacy notice pursuant to § 313.9(f), the proposal would require each motor vehicle dealer to separately provide the notice of availability. The Commission invites comment on how often motor vehicle dealers jointly provide privacy notices and whether the proposed alternative delivery method would be feasible for such jointly issued notices.

Proposed § 313.9(c)(2)(ii)(A) also would require the institution to state on the notice of availability that its privacy policy has not changed, which, as discussed in detail below, is a condition that a dealer must satisfy in order to be able to use the alternative delivery method. This proposed requirement can help customers assess whether they are interested in reading the policy. This statement would always be accurate if the alternative delivery method is used correctly, since a motor vehicle dealer could not use the alternative delivery method if its annual privacy notice had changed.

The proposal would further require that the statement include a specific web address that takes customers directly to the page where the privacy notice is available. The section also would require that the web address conveyed on the notice of availability provide the customer with direct access to the page that contains the privacy notice, so that the customer need not click on any additional links.

Next, proposed § 313.9(c)(2)(ii)(A) would require that the notice of availability include a telephone number that a customer can call to request a hard copy of the annual privacy notice. This number need not be a dedicated number established for this purpose alone. This requirement is intended to assist customers who do not have internet access or would prefer to receive a hard copy of the privacy notice. The Commission encourages motor vehicle dealers that already maintain a toll-free number to use that number in the statement required by § 313.9(c)(2)(ii)(A), to simplify the process for a customer to call and request a mailed copy of the privacy notice.

As an alternative, the Commission invites comment on whether the approach used for notice of availability for motor vehicle dealers should differ from that for the financial institutions covered by Regulation P. Specifically, the Commission seeks comment on the advantages and disadvantages of requiring motor vehicle dealers to provide a dedicated telephone number for privacy notice requests so that customers can easily request a hard copy of the notice without navigating a complicated automated telephone menu. The Commission also invites comment on whether it should require a dedicated toll-free number for this purpose.

9(c)(2)(ii)(B)

Proposed § 313.9(c)(2)(ii)(B) would set forth the second component of the alternative delivery method: that the motor vehicle dealer post its current privacy notice continuously and in a clear and conspicuous manner on a page of the institution's Web site on which the only content is the privacy notice. The Commission believes that, were the notice included on a page with other content, such as other disclosures or promotions for products, that content could detract from the prominence of the notice and make it less likely that a customer would actually read it.[66] The Commission believes that this requirement is feasible for most motor vehicle dealers, and for a motor vehicle dealer that does not currently post its annual notice on its Web site, creating a specific page for this purpose is a one-time process that could be implemented without significant cost.

This section would further require that the Web page that contains the privacy notice be accessible to the customer without requiring the customer to provide any information such as a login name or password or agree to any conditions to access the page. This provision is intended to make accessing the privacy notice on an institution's Web site as simple and straightforward as possible.

The Commission invites comment regarding the prevalence of motor vehicle dealers that currently maintain Web sites, whether they currently post the Privacy Rule notice on those Web sites, and if they do not, how costly it would be to do so. The Commission additionally seeks comment on whether motor vehicle dealers provide different privacy notices for different groups of customers, such that posting multiple privacy notices on the dealer's Web site may create confusion as to which is the relevant privacy notice that is applicable to a particular customer. The Commission seeks comment on the relative benefit or harm to customers of accessing the privacy notice on a motor vehicle dealer's Web site as proposed. Lastly, the Commission invites comment as to whether motor vehicle dealers should be required to provide specific reminder information to a consumer about that consumer's previously established preferences—for example, whether the consumer has already opted out—via a login and password-protected section of the Web site.

9(c)(2)(ii)(C)

Proposed § 313.9(c)(2)(ii)(C) would set forth the third component of the alternative delivery method: That the motor vehicle dealer mail its current privacy notice to those customers who request it by telephone within ten calendar days of such request. The Commission proposes this requirement to assist customers without internet access and customers with internet access who would prefer to receive a hard copy of the notice. This requirement makes clear that a motor vehicle dealer may not, for example, wait to mail the privacy notice with another document, such as a quarterly

[65] 16 CFR 680.23(b).

[66] Information that is not content, such as navigational menus to other pages on the Web site, could appear on the same page as the privacy notice. Moreover, other pages on the dealer's Web site could link to the page containing the privacy notice, but the customer would still have to be provided a specific web address that takes the customer directly to the page where the privacy notice is available to satisfy the requirement to post the notice on the motor vehicle dealer's Web site in proposed § 313.9(c)(2)(ii)(B). Finally, with regard to the proposed requirement that the notice be posted in a ''clear and conspicuous'' manner, the Commission notes that existing § 313.3(b)(2)(iii) gives examples of what clear and conspicuous means for a privacy notice posted on a Web site. One example is a Web page that uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice, and as long as the page does not include text, graphics, hyperlinks, or sound that may distract from the notice.

statement. Motor vehicle dealers may not charge the customer for delivering the annual notice, given that delivery of the annual notice is required by statute and regulation.

The Commission invites comment on the cost associated with mailing privacy notices on request, and whether mailing of the privacy notice within ten calendar days of a request is feasible for motor vehicle dealers. The Commission further requests comment on whether requiring mailing within ten calendar days is sufficient to ensure that customers receive privacy notices in a timely manner.

9(c)(2)(iii)

Proposed § 313.9(c)(2)(iii) would provide an example of a notice of availability that satisfies § 313.9(c)(2)(ii)(A). The Commission intends this example to provide clear guidance on permissible content for the notice of availability to facilitate compliance. The content of the example notice of availability in proposed § 313.9(c)(2)(iii) draws from language in the existing model privacy notice in Part 313, App. A, which was previously subject to consumer testing.[67] The proposed example would include the heading ''Privacy Notice'' in boldface (or otherwise emphasized) on the notice of availability. The proposed example further would state that Federal law requires the motor vehicle dealer to tell customers how it collects, shares, and protects their personal information; this language mirrors the ''Why'' box on the model privacy notices.[68] The remaining portion of the proposed example would inform customers that the motor vehicle dealer's privacy notice has not changed, the address of the Web site at which customers can access the privacy notice, and the telephone number to call to request a free copy of the notice. The Commission notes that the proposed example contains certain elements that would satisfy proposed § 313.9(c)(2), but other language and formatting techniques could also satisfy that section. These elements include titling the notice of availability ''Privacy Notice,'' including a statement that ''Federal law requires the motor vehicle dealer to tell customers how it collects, shares, and protects their personal information,'' and stating that getting a copy of the notice is ''free'' to the consumer.

The Commission invites comment on whether the proposed example notice of availability for motor vehicle dealers should differ from that for financial institutions covered by Regulation P. In particular, the Commission is interested in comment on: (1) Whether the proposed example notice of availability would make the alternative delivery method more feasible for motor vehicle dealers to implement, (2) whether the elements not specifically required by the rule should be so required, and (3) whether the proposed language would be effective in informing customers of the availability of the privacy notice.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[69]

An IRFA is not required here because the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission does not expect the proposal to impose costs on small entities. All methods of compliance under current law will remain available to small entities if the proposal is adopted. Thus, a small entity that is in compliance with current law need not take any different or additional action if the proposal is adopted. In addition, as discussed above, the Commission believes that the proposed alternative method would allow many motor vehicle dealers to reduce their costs.

Accordingly, the Commission certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[70] Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. Under the PRA, the Commission may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection, unless the information collection displays a valid control number assigned by OMB.

This proposal would amend 16 CFR part 313. The collections of information related to the Privacy Rule have been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Number 3084–0121.[71]

As explained below, the proposed amendments do not modify or add to information collection requirements that were previously approved by OMB. Under this proposal, a motor vehicle dealer will be permitted, but not required, to use an alternative delivery method for the annual privacy notice if:

- It does not share information with nonaffiliated third parties other than for purposes covered by the exclusions allowed under the Privacy Rule;
- It does not include on its annual privacy notice an opt-out under section 603(d)(2)(A)(iii) of the FCRA;
- The annual privacy notice is not the only method used to satisfy the requirements of section 624 of the FCRA and 16 CFR part 680, if applicable;
- Certain information it is required to convey on its annual privacy notice has not changed since it provided the immediately prior privacy notice; and
- It uses the Privacy Rule model privacy form for its annual privacy notice.

Under the proposed alternative delivery method, the motor vehicle dealer would have to:

- Convey at least annually on another notice or disclosure that its privacy notice is available on its Web site and will be mailed upon request to a specified telephone number. Among other things, the dealer would have to include a specific web address that takes the customer directly to the privacy notice;
- Post its current privacy notice continuously on a page of its Web site that contains only the privacy notice, without requiring a login or any conditions to access the page; and
- Mail its current privacy notice to customers who request it by telephone within ten calendar days of such request.

Under the existing clearance, the FTC has attributed to itself the estimated burden regarding all motor vehicle dealers and then shares equally the remaining estimated PRA burden with the Bureau for other types of financial institutions for which both agencies have enforcement authority regarding the GLBA Privacy Rule.[72]

[67] *See* Appendix A to 16 CFR part 313, at A.

[68] *Id.*

[69] 5 U.S.C. 603–605.

[70] 44 U.S.C. 3501 *et seq.*

[71] The FTC has current clearance through October 31, 2017. *See* 79 FR 55489 (Sept. 16, 2014).

[72] 79 FR 55489.

The Commission does not believe that this proposed rule would impose any new or substantively revised collections of information as defined by the PRA. Rather, the Commission believes that the proposed amendment would have the overall effect of reducing the currently cleared estimated burden for the information collections associated with the Privacy Rule annual privacy notice.

By definition, the expected cost savings to motor vehicle dealers from the proposed revisions to § 313.9(c) is the expected number of annual privacy notices that would be provided through the proposed alternative delivery method multiplied by the expected reduction in the cost per-notice from using the alternative delivery method. The first step in estimating the expected cost savings to motor vehicle dealers from proposed § 313.9(c)(2) would be to identify the motor vehicle dealers whose current information sharing practices would allow them to use the proposed alternative method. The Commission would then need to determine their currents costs for providing the annual privacy notices and the expected costs of providing these notices under proposed § 313.9(c)(2).

In order to reach such an estimate for financial institutions, the Commission looked to the Bureau's rulemaking. The Bureau performed a number of analyses and outreach activities to approximate the expected cost savings for financial institutions. After examining 125 banks selected through random sampling, the Bureau found that the overall average rate at which banks' information sharing practices would make them eligible for using the alternative delivery method if other conditions were met is 80%.[73] The Bureau's results indicated that a large majority of smaller banks would likely be able to use the proposed alternative delivery method but most of the largest banks would not.[74] For non-depository institutions subject to the Commission's enforcement, the Bureau similarly estimated that 80% would be able to use the alternate delivery method.[75] Subject to further information through public comment, the Commission preliminarily assumes that this 80% is characteristic as well for motor vehicle dealers. The Commission requests comment and the submission of information relevant to the information sharing practices of motor vehicle dealers and the extent to which they may be able to use the proposed alternative delivery method.

The Commission does not have precise data on the number of annual privacy notices motor vehicle dealers currently provide to directly compute the total number of annual privacy notices that would no longer be sent; however, in the Commission's proposal to extend the current PRA clearance for the Privacy Rule,[76] the Commission estimated the total costs to motor vehicle dealers to disseminate annual disclosures to be about $18.4 million.[77] Applying the Commission's estimate that 80% of motor vehicle dealers would be able to utilize the alternative delivery method, the estimated reduction in ongoing burden would be approximately 638,400 hours annually for roughly 48,000 motor vehicle dealers.[78] The reduction in estimated ongoing costs from the reduction in ongoing burden would be approximately $14.7 million annually.[79] The Commission requests comment on this preliminary analysis as well as the submission of additional data that could inform the Commission's consideration of the cost savings to motor vehicle dealers.

The Commission believes that the one-time cost for some motor vehicle dealers to adopt the alternative delivery method is minimal. Motor vehicle dealers that already use the model form and would adopt the alternative delivery method would incur minor one-time legal, programming and training costs. These dealers would have to communicate on a notice or disclosure they already issue under any other provision of law that the privacy notice is available. The expense of adding this notification would be minor. Staff may need some additional training in storing copies of the model form and sending it to customers on request. Motor vehicle dealers that do not use the model form would incur a one-time cost to create one. However, since the promulgation of the model privacy form in 2009, an Online Form Builder has existed that any institution can use to readily create a unique, customized privacy notice using the model form template.[80] The Commission assumes that motor vehicle dealers that do not currently have Web sites would not choose to comply with these requirements in order to use the alternative delivery method.

The Commission has determined that the proposed rule does not contain any new or substantively revised information collection requirements as defined by the PRA and that the burden estimate for the previously-approved information collections should be reduced as explained above. The Commission welcomes comments on these determinations or any other aspect of the proposal for purposes of the PRA. Comments should be submitted as outlined in the **ADDRESSES** section above. All comments will become a matter of public record.

Invitation To Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 31, 2015. Write ''Amendment to the Privacy of Consumer Financial Information Rule, 16 CFR part 313, Project No. R411016'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

[73] 79 FR at 27226.

[74] *Id.* Only 18% of sampled banks with assets over $10 billion could clearly use the proposed alternative delivery method, while 81% of sampled banks with assets of $10 billion or less and 88% of sampled banks with assets of $500 million or less could clearly use the proposed alternative delivery method. The Bureau also examined the privacy policies of 54 credit unions and found 62% of those with assets over $500 million could use the alternative delivery method and 44% of those with $500 million or less in assets could (though, due to inadequate information, the Bureau could not make the assessment for 48% of those credit unions with $500 million or less in assets). *Id.*

[75] 79 FR at 27229.

[76] 79 FR 55489 (Sept. 14, 2014).

[77] *Id.* at 55490–91 Table IIB.

[78] The 638,400 hours estimate is 80% of the previously published estimate of 798,000 hours, cumulatively, for established motor vehicle dealers to disseminate annual notices. *See id.* at 55490 (Table IIB). The estimated number of motor vehicle dealers that would use the alternative delivery method is 80% of the previously published estimate of the number of motor vehicle dealers, 60,000. *See id.* at Table IIA notes.

[79] This is the product of the above-noted costs to motor vehicle dealers to disseminate annual disclosures, $18.4 million, multiplied by the assumed 80% reduction for the alternative delivery method. Estimates of ongoing savings are gross figures and do not take into account any ongoing costs associated with the alternative delivery method, which the Commission believes would be minimal. They would consist of additional text on a notice or disclosure the institution already provides, additional phone calls from consumers requesting that the model form be mailed, and the costs of mailing the forms prompted by these calls. The Commission currently believes that few consumers will request that the form be mailed in order to read it or to exercise any voluntary opt-out right, given the availability of the notices online. There would be minimal ongoing costs associated with the alternative delivery method from maintaining a Web page if a motor vehicle dealer already has a Web page dedicated to the annual privacy policy.

[80] This Online Form Builder is available at *http://www.federalreserve.gov/newsevents/press/bcreg/20100415a.htm.*

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, including medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[81] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/GLBPrivacyamendment,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Amendment to the Privacy of Consumer Financial Information Rule, 16 CFR part 313, Project No. R411016'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex E), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex E), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 31, 2015. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *http://www.ftc.gov/ftc/privacy.htm.*

[81] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

List of Subjects in 16 CFR Part 313

Consumer protection, Motor vehicle dealers, Privacy, Reporting and recordkeeping requirements, Trade practices.

Authority and Issuance

For the reasons set forth in the preamble, the Commission proposes to amend 16 CFR part 313, as set forth below:

PART 313—PRIVACY OF CONSUMER FINANCIAL INFORMATION

■ 1. The authority citation for Part 313 is revised to read as follows:

Authority: 15 U.S.C. 6801 *et seq.,* 12 U.S.C. 5519.

■ 2. In § 313.1, revise paragraph (b) to read as follows:

§ 313.1 Purpose and scope.

* * * * *

(b) *Scope.* This part applies only to nonpublic personal information about individuals who obtain financial products or services primarily for personal, family or household purposes from the institutions listed below. This part does not apply to information about companies or about individuals who obtain financial products or services for business, commercial, or agricultural purposes. This part applies to those ''financial institutions'' over which the Federal Trade Commission (''Commission'') has rulemaking authority pursuant to section 504(a)(1)(C) of the Gramm-Leach-Bliley Act. An entity is a ''financial institution'' if its business is engaging in a financial activity as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k), which incorporates by reference activities enumerated by the Federal Reserve Board in 12 CFR 211.5(d) and 12 CFR 225.28. The ''financial institutions'' subject to the Commission's rulemaking authority are any persons described in 12 U.S.C. 5519 that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. They are referred to in this part as ''*You.*''

■ 3. In § 313.3, revise paragraphs (e), (i), (k), and (q) to read as follows:

§ 313.3 Definitions.

* * * * *

(e)(1) *Consumer* means an individual who obtains or has obtained a financial product or service from you that is to be used primarily for personal, family, or household purposes, or that individual's legal representative.

(2) *Examples for purposes of 16 CFR part 313 and 314*—(i) An individual who applies to you for credit for personal, family, or household purposes is a consumer of a financial service, regardless of whether the credit is extended.

(ii) An individual who provides nonpublic personal information to you in order to obtain a determination about whether he or she may qualify for a loan to be used primarily for personal, family, or household purposes is a consumer of a financial service, regardless of whether the loan is extended.

(iii) If you hold ownership or servicing rights to an individual's loan that is used primarily for personal, family, or household purposes, the individual is your consumer, even if you hold those rights in conjunction with one or more other institutions. (The individual is also a consumer with respect to the other financial institutions involved.) An individual who has a loan in which you have ownership or servicing rights is your consumer, even if you, or another institution with those rights, hire an agent to collect on the loan.

(iv) An individual who is a consumer of another financial institution is not your consumer solely because you act as agent for, or provide processing or other services to, that financial institution.

(v) An individual is not your consumer solely because he or she is a participant or a beneficiary of an employee benefit plan that you sponsor or for which you act as a trustee or fiduciary.

(3) *Examples for purposes of 16 CFR part 314*—(i) An individual who provides nonpublic personal information to you in connection with

obtaining or seeking to obtain financial, investment, or economic advisory services is a consumer, regardless of whether you establish a continuing advisory relationship.

(ii) An individual is not your consumer solely because he or she has designated you as trustee for a trust.

(iii) An individual is not your consumer solely because he or she is a beneficiary of a trust for which you are a trustee.

* * * * *

(i)(1) *Customer relationship* means a continuing relationship between a consumer and you under which you provide one or more financial products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(2) *Examples*—(i) *Continuing relationship.* (A) A consumer has a continuing relationship with you, for purposes of 16 CFR part 313 and part 314, if the consumer:

(*1*) Has a credit or investment account with you;

(*2*) Obtains a loan from you;

(*3*) Purchases an insurance product from you;

(*4*) Enters into an agreement or understanding with you whereby you undertake to arrange credit to purchase a vehicle, for the consumer;

(*5*) Enters into a lease of personal property on a non-operating basis with you; or

(*6*) Has a loan for which you own the servicing rights.

(B) A consumer also has a continuing relationship with you, for purposes of 16 CFR part 314, if the consumer:

(*1*) Holds an investment product through you, such as when you act as a custodian for securities or for assets in an Individual Retirement Arrangement;

(*2*) Enters into an agreement or understanding with you whereby you undertake to arrange or broker a home mortgage loan, for the consumer;

(*3*) Obtains financial, investment, or economic advisory services from you for a fee;

(*4*) Becomes your client for the purpose of obtaining tax preparation or credit counseling services from you;

(*5*) Obtains career counseling while seeking employment with a financial institution or the finance, accounting, or audit department of any company (or while employed by such a financial institution or department of any company);

(*6*) Is obligated on an account that you purchase from another financial institution, regardless of whether the account is in default when purchased, unless you do not locate the consumer or attempt to collect any amount from the consumer on the account; or

(*7*) Obtains real estate settlement services from you.

(ii) *No continuing relationship.* (A) For purposes of 16 CFR parts 313 and 314, a consumer does not, however, have a continuing relationship with you if:

(*1*) The consumer obtains a financial product or service from you only in isolated transactions, such as cashing a check with you or making a wire transfer through you;

(*2*) You sell the consumer's loan and do not retain the rights to service that loan; or

(*3*) The consumer obtains one-time personal or real property appraisal services from you.

(B) For purposes of 16 CFR part 314, a consumer also does not have a continuing relationship with you if:

(*1*) The consumer obtains a financial product or service from you only in isolated transactions, such as using your ATM to withdraw cash from an account at another financial institution or purchasing a money order from you;

(*2*) You sell the consumer airline tickets, travel insurance, or traveler's checks in isolated transactions; or

(*3*) The consumer purchases checks for a personal checking account from you.

* * * * *

(k)(1) *Financial institution* means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). An institution that is significantly engaged in financial activities is a financial institution.

(2) *Example of financial institution for purposes of 16 CFR part 313 and 314.* An automobile dealership that, as a usual part of its business, leases automobiles on a nonoperating basis for longer than 90 days is a financial institution with respect to its leasing business because leasing personal property on a nonoperating basis where the initial term of the lease is at least 90 days is a financial activity listed in 12 CFR 225.28(b)(3) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(3) *Examples of financial institution for purposes of 16 CFR part 314.* (i) A retailer that extends credit by issuing its own credit card directly to consumers is a financial institution because extending credit is a financial activity listed in 12 CFR 225.28(b)(1) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act and issuing that extension of credit through a proprietary credit card demonstrates that a retailer is significantly engaged in extending credit.

(ii) A personal property or real estate appraiser is a financial institution because real and personal property appraisal is a financial activity listed in 12 CFR 225.28(b)(2)(i) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(iii) A career counselor that specializes in providing career counseling services to individuals currently employed by or recently displaced from a financial organization, individuals who are seeking employment with a financial organization, or individuals who are currently employed by or seeking placement with the finance, accounting or audit departments of any company is a financial institution because such career counseling activities are financial activities listed in 12 CFR 225.28(b)(9)(iii) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(iv) A business that prints and sells checks for consumers, either as its sole business or as one of its product lines, is a financial institution because printing and selling checks is a financial activity that is listed in 12 CFR 225.28(b)(10)(ii) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(v) A business that regularly wires money to and from consumers is a financial institution because transferring money is a financial activity referenced in section 4(k)(4)(A) of the Bank Holding Company Act and regularly providing that service demonstrates that the business is significantly engaged in that activity.

(vi) A check cashing business is a financial institution because cashing a check is exchanging money, which is a financial activity listed in section 4(k)(4)(A) of the Bank Holding Company Act.

(vii) An accountant or other tax preparation service that is in the business of completing income tax returns is a financial institution because tax preparation services is a financial activity listed in 12 CFR 225.28(b)(6)(vi) and referenced in section 4(k)(4)(G) of the Bank Holding Company Act.

(viii) A business that operates a travel agency in connection with financial services is a financial institution because operating a travel agency in connection with financial services is a financial activity listed in 12 CFR 211.5(d)(15) and referenced in section 4(k)(4)(G) of the Bank Holding Company Act.

(ix) An entity that provides real estate settlement services is a financial institution because providing real estate settlement services is a financial activity listed in 12 CFR 225.28(b)(2)(viii) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(x) A mortgage broker is a financial institution because brokering loans is a financial activity listed in 12 CFR 225.28(b)(1) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

(xi) An investment advisory company and a credit counseling service are each financial institutions because providing financial and investment advisory services are financial activities referenced in section 4(k)(4)(C) of the Bank Holding Company Act.

(4) *Financial institution* does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ii) The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party other than as permitted by §§ 313.14 and 313.15 of this Part.

(iv) Entities that engage in financial activities but that are not significantly engaged in those financial activities.

(5) *Example of entities that are not significantly engaged in financial activities for purposes of 16 CFR part 313 and 314.* A motor vehicle dealer is not a financial institution merely because it accepts payment in the form of cash, checks, or credit cards that it did not issue.

(6) *Examples of entities that are not significantly engaged in financial activities for purposes of 16 CFR part 314.* (i) A retailer is not a financial institution if its only means of extending credit are occasional ''lay away'' and deferred payment plans or accepting payment by means of credit cards issued by others.

(ii) A retailer is not a financial institution merely because it accepts payment in the form of cash, checks, or credit cards that it did not issue.

(iii) A merchant is not a financial institution merely because it allows an individual to ''run a tab.''

(iv) A grocery store is not a financial institution merely because it allows individuals to whom it sells groceries to cash a check, or write a check for a higher amount than the grocery purchase and obtain cash in return.

* * * * *

(q) For purposes of 16 CFR part 313, *You* includes each ''financial institution'' over which the Commission has rulemaking authority pursuant to section 504(a)(1)(C) of the Gramm-Leach-Bliley Act. For purposes of 16 CFR part 314, *You* includes each ''financial institution'' (but excludes any ''other person'') over which the Commission has enforcement jurisdiction pursuant to section 505(a)(7) of the Gramm-Leach-Bliley Act.

■ 4. In § 313.9, revise paragraph (c) to read as follows:

§ 313.9 Delivering privacy and opt out notices.

* * * * *

(c) *Annual notices only.* (1) *Reasonable expectation.* You may reasonably expect that a customer will receive actual notice of your annual privacy notice if:

(i) The customer uses your Web site to access financial products and services electronically and agrees to receive notices at the Web site, and you post your current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(ii) The customer has requested that you refrain from sending any information regarding the customer relationship, and your current privacy notice remains available to the customer upon request.

(2) *Alternative method for providing certain annual notices.* (i) Notwithstanding paragraph (a) of this section, you may use the alternative method described in paragraph (c)(2)(ii) of this section to satisfy the requirement in § 313.5(a)(1) to provide a notice if:

(A) You do not disclose the customer's nonpublic personal information with nonaffiliated third parties other than for purposes under §§ 313.13, 313.14, and 313.15;

(B) You do not include on your annual privacy notice pursuant to § 313.6(a)(7) an opt out under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii));

(C) The requirements of section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s–3) and Part 680 of this chapter, if applicable, have been satisfied previously or the annual privacy notice is not the only notice provided to satisfy such requirements;

(D) The information you are required to convey on your annual privacy notice pursuant to § 313.6(a)(1) through (5), (8), and (9) has not changed since you provided the immediately previous privacy notice (whether initial, annual or revised) to the customer, other than to eliminate categories of information you disclose or categories of third parties to whom you disclose information; and

(E) You use the model privacy form in the appendix to this part for your annual privacy notice.

(ii) For an annual privacy notice that meets the requirements in paragraph (c)(2)(i) of this section, you satisfy the requirement in § 313.5(a)(1) to provide a notice if you:

(A) Convey in a clear and conspicuous manner not less than annually on an account statement, coupon book, or a notice or disclosure you are required or expressly and specifically permitted to issue under any other provision of law that your privacy notice is available on your Web site and will be mailed to the customer upon request by telephone. The statement must state that your privacy notice has not changed and must include a specific Web address that takes the customer directly to the page where the privacy notice is posted and a designated telephone number for the customer to request that it be mailed;

(B) Post your current privacy notice continuously in a clear and conspicuous manner on a page of your Web site that contains only the privacy notice, without requiring the customer to provide any information such as a login name or password or agree to any conditions to access the page; and

(C) Mail your current privacy notice to those customers who request it by telephone within ten days of the request.

(iii) An example of a statement that satisfies paragraph (c)(2)(ii)(A) of this section is: ''Privacy Notice'' in boldface or otherwise emphasized: Privacy Notice—Federal law requires us to tell you how we collect, share, and protect your personal information. Our privacy policy has not changed and you may review our policy and practices with respect to your personal information at [Web address] or we will mail you a free copy upon request if you call us at [telephone number].

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–14328 Filed 6–23–15; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM15–16–000]

Transmission Operations Reliability Standards and Interconnection Reliability Operations and Coordination Reliability Standards

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve revisions to the Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards, developed by the North American Electric Reliability Corporation, which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards.

DATES: Comments are due August 24, 2015.

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:

Robert T. Stroh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8473, *Robert.Stroh@ferc.gov*

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SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission proposes to approve revisions to the Transmission Operations (TOP) and Interconnection Reliability Operations and Coordination (IRO) Reliability Standards, developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO). The Commission believes that the proposed TOP and IRO Reliability Standards improve on the currently-effective standards by providing a more precise set of Reliability Standards addressing operating responsibilities and improving the delineation of responsibilities between applicable entities. The Commission also believes that the revised TOP Reliability Standards eliminate gaps and ambiguities in the currently-effective TOP requirements and improve efficiency by incorporating the necessary requirements from the eight currently-effective TOP Reliability Standards into three cohesive, comprehensive Reliability Standards. Further, the Commission believes that the proposed standards clarify and improve upon the currently-effective TOP and IRO Reliability Standards by designating requirements in the proposed standards that apply to transmission operators for the TOP standards and reliability coordinators for the IRO standards. Thus, the Commission proposes to find that there are benefits to clarifying and bringing efficiencies to the TOP and IRO Reliability Standards, consistent with the Commission's policy promoting increased efficiencies in Reliability Standards and reducing requirements that are either redundant with other currently-effective requirements or have little reliability benefit.[2]

2. The Commission also proposes to find that NERC has adequately addressed the concerns raised by the Commission in the Notice of Proposed Rulemaking (Remand NOPR) issued in November 2013.[3] In the Remand NOPR, the Commission proposed to remand an earlier version of proposed TOP and IRO Standards due to concerns regarding the proposed treatment of system operating limits (SOLs) and interconnection reliability operating limits (IROLs) and concerns about outage coordination. Further, the Commission proposes to approve the definitions for operational planning analysis and real-time assessment, and the violation severity level and violation risk factor assignments.

3. While proposing to approve the TOP and IRO Reliability Standards, below the Commission seeks clarifying comments addressing four issues: (A) Possible inconsistencies in identifying IROLs; (B) monitoring of non-bulk electric system facilities; (C) removal of the load-serving entity as an applicable entity for proposed Reliability Standard TOP–001–3; and (D) data exchange capabilities. Based on comments and information received on these issues, the Commission may issue directives as appropriate.

I. Background

4. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards are enforced by the ERO, subject to Commission oversight, or by the Commission independently. On March 16, 2007, the Commission issued Order No. 693, approving 83 of the 107 initial Reliability Standards filed by NERC, including the existing TOP and IRO Reliability Standards.[4] In addition, in Order No. 748, the Commission approved revisions to the IRO Reliability Standards.[5]

5. On April 16, 2013, in Docket No. RM13–14–000, NERC submitted for Commission approval three revised TOP Reliability Standards to replace the eight currently-effective TOP standards.[6] Additionally, on April 16, 2013, in Docket No. RM13–15–000, NERC submitted for Commission approval four revised IRO Reliability Standards to replace six currently-

[1] 16 U.S.C. 824o (2012).

[2] *Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards,* Order No. 788, 145 FERC ¶ 61,147 (2013).

[3] *Monitoring System Conditions—Transmission Operations Reliability Standard, Transmission Operations Reliability Standards, Interconnection Reliability Operations and Coordination Reliability Standards,* Notice of Proposed Rulemaking, 145 FERC ¶ 61,158 (2013). Concurrent with filing the proposed TOP/IRO standards in the immediate proceeding, NERC submitted a motion to withdraw the earlier petition that was the subject of the Remand NOPR. No protests to the motion were filed and the petition was withdrawn pursuant to 18 CFR 385.216(b).

[4] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 16416 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[5] *Mandatory Reliability Standards for Interconnection Reliability Operating Limits,* Order No. 748, 134 FERC ¶ 61,213 (2011).

[6] On April 5, 2013, in Docket No. RM13–12–000 NERC proposed revisions to Reliability Standard TOP–006–3 to clarify that transmission operators are responsible for monitoring and reporting available transmission resources and that balancing authorities are responsible for monitoring and reporting available generation resources.

effective IRO Reliability Standards. On November 21, 2013, the Commission issued the Remand NOPR in which the Commission expressed concern that NERC had ''removed critical reliability aspects that are included in the currently-effective standards without adequately addressing these aspects in the proposed standards.'' [7] The Commission identified two main concerns and asked for clarification and comment on a number of other issues. Among other things, the Commission expressed concern that the proposed TOP Reliability Standards did not require transmission operators to plan and operate within all SOLs, which is a requirement in the currently-effective standards. In addition, the Commission expressed concern that the proposed IRO Reliability Standards did not require outage coordination.

6. On December 20, 2013, NERC filed a motion requesting that the Commission defer action, until January 31, 2015, to allow NERC time to consider the reliability concerns raised by the Commission in the Remand NOPR. The Commission granted that motion on January 14, 2014.[8] In response to the Remand NOPR, NERC initiated Project 2014–03 to develop further revisions to the TOP and IRO Reliability Standards.

NERC Petition

7. On March 18, 2015, as supplemented on May 12, 2015, NERC submitted a petition seeking approval of two sets of Reliability Standards to replace the currently-effective TOP and IRO Reliability Standards. NERC states that the proposed TOP Reliability Standards generally address real-time operations and planning for next-day operations, and apply primarily to the responsibilities and authorities of transmission operators, with certain requirements applying to the roles and responsibilities of the balancing authority. NERC adds that the proposed IRO Reliability Standards set forth the responsibility and authority of reliability coordinators to provide for reliable operations. According to NERC, reliability coordinators have an essential role in ensuring reliable operations, as they are the functional entities with the highest level of authority and have the wide-area view of the bulk electric system.[9]

8. NERC states that the proposed Reliability Standards include improvements over the currently effective TOP and IRO Reliability Standards in key areas such as: (1) Operating within SOLs and IROLs; (2) outage coordination; (3) situational awareness; (4) improved clarity and content in foundational definitions; and (5) requirements for operational reliability data.

9. NERC states that the proposed TOP and IRO Reliability Standards address the coordinated efforts to plan and reliably operate the bulk electric system under both normal and abnormal conditions. NERC states that the proposed Reliability Standards provide a comprehensive framework for reliable operations, with important improvements to ensure the bulk electric system is operated within pre-established limits while enhancing situational awareness and strengthening operations planning. NERC explains that the proposed Reliability Standards establish or revise requirements for operations planning, system monitoring, real-time actions, coordination between applicable entities, and operational reliability data. According to NERC, the proposed Reliability Standards help to ensure that reliability coordinators and transmission operators work together, and with other functional entities, to operate the bulk electric system within SOLs and IROLs.[10] Further, NERC explains that SOLs and IROLs are vital concepts in the Reliability Standards because they establish acceptable performance criteria both pre- and post-contingency to maintain reliable bulk electric system operations. NERC states that when any facility rating or stability limit is exceeded, or expected to be exceeded, these conditions should be mitigated to avoid the possibility of further deteriorating system conditions and the potential for a cascading event. In addition, NERC states that the standard drafting team developed a white paper on SOL definition and exceedance criteria which clarified the team's position on establishing and exceeding SOLs, and on implementing operating plans to mitigate exceedances. The SOL white paper explains the links between relevant reliability standards and reliability concepts to establish a common understanding necessary for developing effective operating plans to mitigate SOL exceedances.[11]

10. NERC states that it reviewed the report on the Arizona-Southern California Outages on September 8, 2011, Causes and Recommendations (''2011 Southwest Outage Blackout Report'') that includes findings and recommendations applicable to transmission operators, balancing authorities and reliability coordinators, and provides explanations of how the proposed Reliability Standards address the reliability issues identified following the 2011 Southwest Outage Blackout Report. Further, NERC states that it addressed outstanding Commission directives relevant to the proposed TOP and IRO Reliability Standards.

Revisions to TOP Standards

11. NERC proposes three TOP Reliability Standards to replace the existing suite of TOP standards. The proposed TOP Reliability Standards generally address real-time operations and planning for next-day operations, and apply primarily to the responsibilities and authorities of transmission operators. Among other things, NERC states that the proposed revisions to the TOP Reliability Standards help ensure that transmission operators plan and operate within all SOLs.

TOP–001–3 (Transmission Operations)

12. NERC proposes Reliability Standard TOP–001–3 (Transmission Operations), which contains twenty requirements. The purpose of proposed Reliability Standard TOP–001–3 is to prevent instability, uncontrolled separation, or cascading outages that adversely affect the reliability of the interconnection, by ensuring prompt action to prevent or mitigate such occurrences. According to NERC, the proposed standard achieves this reliability goal by providing appropriate entities with the authority to take actions, or direct the actions of others, to maintain reliability during real-time operations. NERC explains that the standard includes real-time monitoring and real-time assessment requirements

[7] Remand NOPR, 145 FERC ¶ 61,158 at P 4.

[8] *Monitoring System Conditions—Transmission Operations Reliability Standard, Transmission Operations Reliability Standards, Interconnection Reliability Operations and Coordination Reliability Standards,* Order Granting Motion to Defer Action, 146 FERC ¶ 61,023 (2014).

[9] The TOP and IRO Reliability Standards are not attached to this NOPR. The complete text of the Reliability Standards is available on the Commission's eLibrary document retrieval system in Docket No. RM15–16 and is posted on the ERO's Web site, *available at: http://www.nerc.com.*

[10] The NERC Glossary of Terms defines IROL as ''[a] System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Bulk Electric System.'' In turn, NERC defines SOL as ''[t]he value (such as MW, MVar, Amperes, Frequency or Volts) that satisfies the most limiting of the prescribed operating criteria for a specified system configuration to ensure operation within acceptable reliability criteria. . . .''

[11] NERC Petition at 46 and Exhibit E, ''White Paper on System Operating Limit Definition and Exceedance Clarification.''

to preserve reliability and ensure that applicable entities identify and address all SOL exceedances.

13. Requirements R1 and R2 require each transmission operator and balancing authority to explicitly and affirmatively act to address the reliability of its area through its own actions or by issuing operating instructions. In contrast, NERC notes that the obligation to act in currently effective Reliability Standard TOP–001–1a is implied, but not an explicit requirement. Requirements R3 and R4 together provide that each applicable entity must comply with each operating instruction issued by its transmission operator, unless doing so would violate safety, equipment, regulatory, or statutory requirements or the action cannot be physically implemented, and require an applicable entity to notify the transmission operator if it is unable to comply with the transmission operator's operating instruction. Similarly, Requirements R5 and R6 require the same actions of applicable entities with respect to an operating instruction issued by a balancing authority.

14. Requirement R7 requires each transmission operator to assist other transmission operators within its reliability coordinator area, and Requirement R8 requires a transmission operator to inform applicable entities of the transmission operator's actual or expected operations that result in, or could result in, an emergency.

15. Requirements R9, R16, and R17 address outage coordination of monitoring and control equipment. Requirement R9 provides that each balancing authority and transmission operator must notify its reliability coordinator and known impacted interconnected entities of all planned outages, and unplanned outages of 30 minutes or more, for telemetering and control equipment, monitoring and assessment capabilities, and associated communication channels between the affected entities. Requirements R16 and R17 state that each transmission operator and balancing authority must provide its system operators with the authority to approve planned outages and maintenance.

16. Requirement R10 addresses transmission operator monitoring obligations to help ensure that transmission operators have the necessary situational awareness to maintain reliable operations. Requirement R10 provides that each transmission operator must take certain steps for determining SOL exceedances within its transmission operator area. NERC explains that Requirement R10 addresses the Commission's concerns that the TOP and IRO Reliability Standards, that were the subject of the Remand NOPR, did not have sufficient requirements for real-time monitoring. Requirement R11 is the equivalent of Requirement R10 for balancing authorities.

17. Requirement R12 provides that each transmission operator must not operate outside of any identified IROL for a continuous duration exceeding its associated IROL T_v. NERC states that this requirement will provide consistency with the reliability coordinators requirements contained in currently-effective Reliability Standard IRO–009–1.[12] Requirement R13 provides that each transmission operator must ensure that a real-time assessment is performed at least once every 30 minutes. The revised definition of ''real-time assessment'' includes additional specificity regarding various inputs for the assessment and how that information may be provided through third-party services, which may provide smaller entities an efficient method for compliance. Requirement R14 provides that each transmission operator must initiate its operating plan to mitigate a SOL exceedance identified as part of its real-time monitoring or real-time assessment.[13]

18. Requirement R15 provides that each transmission operator must inform its reliability coordinator of actions taken to return the system to within limits when a SOL has been exceeded. Requirement R18 provides that each transmission operator must operate to the most limiting parameter in instances where there is a difference in SOLs. Requirements R19 and R20 provide that each transmission operator and balancing authority must have data exchange capabilities with the entities from which it needs data in order to maintain reliability in its area.

19. In addition, NERC states that it removed the load-serving entity (LSE) function from proposed TOP–001–3, Requirements R3 through R6 due to the November 2014 NERC Board of Trustees action to remove the LSE as a functional entity from NERC's Rules of Procedure.[14] On May 12, 2015, NERC supplemented its filing with additional explanation for the removal of the LSE function.

TOP–002–4 (Operations Planning)

20. Proposed Reliability Standard TOP–002–4 contains seven requirements relating to operations planning for transmission operators and balancing authorities. NERC explains that the proposed standard addresses next-day planning and provides for the necessary notifications and coordination between various functional entities. NERC adds that the revised definition of ''operational planning analysis'' specifies the scope and inputs required for next-day analyses. According to NERC, the proposed standard also improves coordination of next-day operations by requiring transmission operators and balancing authorities to provide operating plans to their reliability coordinators.

21. Proposed Requirements R1 through R3 and R6 apply to transmission operators, and proposed Requirements R4, R5, and R7 apply to balancing authorities. Requirement R1 requires each transmission operator to have an operational planning analysis that will allow it to assess whether its planned operations for the next day within its transmission operator area will exceed any of its SOLs. Requirement R2 requires each transmission operator to have operating plans for next-day operations to address potential SOL exceedances identified in the operational planning analysis performed pursuant to Requirement R1. Requirement R4 requires each balancing authority to have operating plans for the next day that address expected generation resource commitment and dispatch, interchange scheduling, demand patterns, and capacity and energy reserve requirements, including deliverability capability. Requirements R3 and R5 require each transmission operator and balancing authority, respectively, to notify the entities identified in their operating plan as to their roles in that plan. Requirements R6 and R7 require each transmission operator and balancing authority to provide its operating plan to its reliability coordinator.

TOP–003–3 (Operational Reliability Data)

22. Proposed Reliability Standard TOP–003–3 (Operational Reliability Data) establishes requirements for the provision of information and data needed by the transmission operator and balancing authority for reliable operations. The purpose of proposed Reliability Standard TOP–003–3 is to ensure that transmission operators and

[12] NERC defines T_v as ''[t]he maximum time that an Interconnection Reliability Operating Limit can be violated before the risk to the interconnection or other Reliability Coordinator Area(s) becomes greater than acceptable. Each Interconnection Reliability Operating Limit's T_v shall be less than or equal to 30 minutes.''

[13] NERC Petition, Exhibit B at 5.

[14] NERC Petition, Exhibit K, Consideration of Comments January 7, 2015, at 2.

balancing authorities have the data needed to fulfill their operational and planning responsibilities. The proposed Reliability Standard consists of five Requirements, including requirements for balancing authorities and transmission operators to maintain and distribute to relevant entities data specifications needed to perform various analyses and assessments. The proposed Reliability Standard also requires entities receiving data specifications to respond according to mutually agreed upon parameters including format and security protocols.

23. Requirement R1 requires each transmission operator to maintain a documented specification for the data necessary, including non-bulk electric system and external network data, for it to perform its operational planning analysis, real-time monitoring, and real-time assessments. Requirement R2 requires each balancing authority to maintain a documented specification for the data necessary for it to perform its analysis functions and real-time monitoring. Requirements R3 and R4 require each transmission operator and balancing authority to distribute its data specification to the entities that have the necessary data. Requirement R5 requires each applicable entity receiving a data specification pursuant to Requirement R3 or R4 to satisfy the obligations of the documented data specification.

24. In response to the Commission's concerns in the Remand NOPR with regard to the need for including external networks and sub-100 kV facilities in the operational planning analysis conducted by transmission operators, NERC explains that proposed Reliability Standard TOP–003–3 requires each applicable entity to develop a data specification that would cover its data needs for monitoring and analysis purposes, including non-bulk electric system data and external network data deemed necessary by the transmission operator to support its operational planning analyses, real-time monitoring, and real-time assessments. With respect to sub-100 kV facilities, NERC determined that any sub-100 kV elements that are necessary for reliable operation of the bulk electric system would be included as bulk electric system facilities through the exception process provided in Appendix 5C to the NERC Rules of Procedure. NERC explains that the exception process provides the means for transmission operators and reliability coordinators to include elements in the bulk electric system that are necessary for the reliable operation of the interconnected transmission system but were not identified in the bulk electric system definition. Accordingly, NERC concludes that it is not necessary to include non-bulk electric system monitoring in Reliability Standard TOP–001–3. In addition, NERC explains that proposed Reliability Standard TOP–001–3, Requirement R10 requires transmission operators to monitor bulk electric system facilities within their transmission operator area, and to obtain information deemed necessary by the transmission operator about such bulk electric system facilities located outside of the transmission operator area when determining SOL exceedances.

25. NERC adds that when non-bulk electric facilities have no impact on the bulk electric system, but are needed for completing system models, the Commission-approved Reliability Standard FAC–001–2, Requirement R3 addresses the issue. This Reliability Standard requires the reliability coordinator to include in its methodology its entire reliability coordinator area and critical modeling details from other reliability coordinator areas that would affect the facility under study. In addition, the reliability coordinator must include details of system models used to determine SOLs.

Revisions to IRO Standards

26. The proposed IRO Reliability Standards, which complement the proposed TOP Standards, are designed to ensure that the bulk electric system is planned and operated in a coordinated manner to perform reliably under normal and abnormal conditions. The proposed IRO Reliability Standards set forth the responsibility and authority of reliability coordinators to provide for reliable operations. NERC states that in the proposed IRO Reliability Standards reliability coordinators must continue to monitor SOLs in addition to their obligation in the currently effective Reliability Standards to monitor and analyze IROLs. These obligations require reliability coordinators to have the wide-area view necessary for situational awareness and provide them the ability to respond to system conditions that have the potential to negatively affect reliable operations.

IRO–001–4 (Reliability Coordination—Responsibilities)

27. Proposed Reliability Standard IRO–001–4 (Reliability Coordination—Responsibilities) contains requirements relating to the reliability coordinator's overall responsibility for reliable operation within the reliability coordinator area. Requirement R1 provides that each reliability coordinator must act to address the reliability of its reliability coordinator area through direct actions or by issuing operating instructions. Requirement R2 provides that each applicable entity must comply with its reliability coordinator's operating instructions unless compliance cannot be implemented or would violate safety, equipment, regulatory, or statutory requirements. Requirement R3 provides that applicable entities must inform the reliability coordinator if they are unable to perform an operating instruction issued by its reliability coordinator.

IRO–002–4 (Reliability Coordination—Monitoring and Analysis)

28. Proposed Reliability Standard IRO–002–4 (Reliability Coordination—Monitoring and Analysis) contains requirements relating to capabilities for monitoring and analysis of real-time operating data. The purpose of the proposed Reliability Standard is to provide system operators with the capabilities necessary to monitor and analyze data needed to perform reliability functions. Requirement R1 requires each reliability coordinator to have data exchange capabilities with its balancing authorities, transmission operators, and other entities as it deems necessary, for it to perform operational planning analyses, real-time monitoring, and real-time assessments. Requirement R2 provides that each reliability coordinator must provide its system operators with the authority to approve planned outages and maintenance of its telecommunication, monitoring, and analysis capabilities. Requirement R3 provides that each reliability coordinator must monitor facilities, the status of special protection systems and non-bulk electric system facilities identified as necessary within its reliability coordinator area and neighboring reliability coordinator areas, to identify any SOL or IROL exceedances. Requirement R4 provides that each reliability coordinator must have monitoring systems that provide information used by the reliability coordinator's operating personnel, with particular emphasis to alarm management and awareness systems, automated data transfers, and synchronized information systems, over a redundant infrastructure.

IRO–008–2 (Reliability Coordinator Operational Analyses and Real-time Assessments)

29. Proposed Reliability Standard IRO–008–2 (Reliability Coordinator Operational Analyses and Real-time Assessments) contains requirements for reliability coordinators to conduct next-day analyses and assessments of

operating conditions in real-time to help prevent instability, uncontrolled separation, or cascading. NERC states that the proposed definitions of operational planning analysis and real-time assessment are integral components of proposed Reliability Standard IRO–008–2 because they specify the scope and inputs for next-day analysis and real-time assessments of operating conditions in real-time. Furthermore, NERC states that proposed Reliability Standard IRO–008–2 enhances next-day operations planning by specifying requirements for coordination of the reliability coordinator's operating plan to address potential SOL and IROL exceedances.

30. Requirement R1 provides that each reliability coordinator must perform an operational planning analysis that will allow it to assess whether the planned operations for the next day will exceed SOLs and IROLs. Requirement R2 requires each reliability coordinator to have a coordinated operating plan for next-day operations to address potential SOL and IROL exceedances identified as a result of its operating planning analysis. Requirement R3 provides that each reliability coordinator must notify impacted entities identified in its operating plan as to their role in the plan. Requirement R4 states that each reliability coordinator must ensure that a real-time assessment is performed at least once every 30 minutes. Requirement R5 provides that each reliability coordinator must notify impacted transmission operators and balancing authorities within its reliability coordinator area and other impacted reliability coordinators when a real-time assessment indicates an actual or expected condition that results in, or could result in, a SOL or IROL exceedance. Further, Requirement R6 provides that each reliability coordinator must notify impacted entities when a SOL or IROL exceedance has been prevented or mitigated.

IRO–010–2 (Reliability Coordinator Data Specification and Collection)

31. Proposed Reliability Standard IRO–010–2 (Reliability Coordinator Data Specification and Collection) provides a mechanism for a reliability coordinator to obtain the information and data it needs for reliable operations and to help prevent instability, uncontrolled separation, or cascading outages. According to NERC, proposed Reliability Standard IRO–010–2 reflects recommendations from the 2011 Southwest Outage Blackout Report, including more clearly identifying necessary data and information to be included in a reliability coordinator's data specification. Requirement R1 provides that the reliability coordinator must maintain a documented specification for the data, including non-bulk electric system and external network data, necessary for it to perform its operational planning analyses, real-time monitoring, and real-time assessments. Requirement R2 provides that the reliability coordinator must distribute its data specification to entities that have the required data. Requirement R3 provides that applicable entities receiving a data specification must satisfy the obligations of the documented specification using a mutually-agreeable format, process for resolving data conflicts, and security protocol.

IRO–014–3 (Coordination Among Reliability Coordinators)

32. Proposed Reliability Standard IRO–014–3 (Coordination among Reliability Coordinators) contains requirements for coordination for interconnected operations at the reliability coordinator level. The purpose of the proposed Reliability Standard is to ensure that each reliability coordinator's operations are coordinated such that they will not adversely affect other reliability coordinator areas and to preserve the reliability benefits of interconnected operations. Requirement R1 requires each reliability coordinator to have and implement operating procedures, processes, or plans for activities that require notification or coordination of actions that may affect adjacent reliability coordinator areas. Requirement R2 requires each reliability coordinator to maintain its operating procedures, processes, or plans through annual reviews and updates, with no more than 15 months passing between reviews. Requirement R3 requires each reliability coordinator to notify other impacted reliability coordinators upon identification of an expected or actual emergency. Requirement R4 specifies that, if the reliability coordinators disagree on the existence of an emergency, each must operate as though an emergency exists. Requirement R5 states that a reliability coordinator that identifies an emergency must develop an action plan to resolve the emergency, and Requirement R6 requires impacted reliability coordinators to implement the action plan. Under Requirement R7, a reliability coordinator must assist another reliability coordinator if the requesting reliability coordinator has implemented its emergency procedures.

IRO–017–1 (Outage Coordination)

33. NERC states that proposed Reliability Standard IRO–017–1 (Outage Coordination) is a new Reliability Standard designed to ensure that outages are properly coordinated in the operations planning time horizon and near-term transmission planning horizon. According to NERC, the requirements in the proposed Reliability Standard, which span both time horizons, provide the necessary requirements for effective coordination of planned outages to support reliable operations.

34. NERC notes that in the Remand NOPR the Commission identified coordination of outages as a critical reliability function that should be performed by the reliability coordinator that was not adequately addressed. NERC explains that proposed Reliability Standard IRO–017–1 addresses the Commission's Remand NOPR concerns by requiring each reliability coordinator to develop, implement and maintain an outage coordination process for generation and transmission outages. NERC also explains that each transmission operator and balancing authority would then be required to perform the functions specified in its reliability coordinator's process. Further, NERC states that each planning coordinator and transmission planner will provide its planning assessment to relevant reliability coordinators and work together to solve any issues or conflicts with planned outages among the applicable entities. Additionally, NERC states that proposed Reliability Standard IRO–014–3, Requirement R1, Part 1.4 requires reliability coordinators to coordinate with adjacent reliability coordinators the exchange of planned and unplanned outage information to support operational planning analyses and real-time assessments in their operating procedures, processes, or plans.

35. Proposed Reliability Standard IRO–017–1 has four requirements. Requirement R1 provides that each reliability coordinator must develop, implement, and maintain an outage coordination process for generation and transmission outages. Requirement R2 provides that each transmission operator and balancing authority must perform the functions specified in its reliability coordinator's outage coordination process. Requirement R3 provides that each planning coordinator and transmission planner must provide its planning assessment to impacted reliability coordinators. Requirement R4 requires each planning coordinator and transmission planner to jointly develop

solutions with its respective reliability coordinators for identified issues or conflicts with planned outages in its planning assessment for the near-term transmission planning horizon.

Definitions

36. NERC also proposes revised definitions for ''operational planning analysis'' and ''real-time assessment.'' [15] NERC contends that the proposed definitions provide significant additional detail compared to the currently effective definitions to enhance the consistency and the reliability benefit of operational planning analysis and real-time assessments.[16] NERC states that the additional specificity reflected in the proposed definitions addresses concerns raised in the Remand NOPR and includes several inputs that were identified as recommendations in the 2011 Southwest Outage Blackout Report, which, in turn, will enhance situational awareness.

37. The proposed NERC Glossary term ''Operating Instruction'' defines the scope of commands that are covered by the proposed TOP and IRO Reliability Standards. NERC explains that the revisions in the proposed definitions are intended to ensure that operational planning analyses and real-time assessments contain sufficient details to result in an appropriate level of situational awareness for next-day planning and real-time operations, respectively.

Implementation Plan

38. NERC proposes that, for all standards except proposed Reliability Standards TOP–003–3 and IRO–010–2, the effective date will be the first day of the first calendar quarter twelve months after Commission approval. The twelve month implementation period for all of the standards except TOP–003–3 and IRO–010–2 is intended to allow time for entities to update processes and train operators on the revised requirements. All of the Requirements in proposed TOP–003–3 and IRO–010–2 except TOP–003–3, Requirements R5 and IRO–010–2, Requirement R3 would become effective three months earlier, in order to provide recipients of data requests from their reliability coordinators, transmission operators, and/or balancing authorities time to respond to the requests for data.

39. According to NERC's implementation plan, for proposed TOP–003–3, all requirements except Requirement R5 will become effective on the first day of the first calendar quarter nine months after the date that the standard is approved. For proposed IRO–010–2, Requirements R1 and R2 would become effective on the first day of the first calendar quarter that is nine months after the date that the standard is approved. Requirement R3 would become effective on the first day of the first calendar quarter twelve months after the date that the standard is approved. NERC states that the reason for the difference in effective dates for proposed TOP–003–3 and IRO–010–2 is to allow applicable entities to have time to properly respond to the data specification requests.

II. Discussion

40. Pursuant to section 215(d) of the FPA, we propose to approve NERC's proposed revisions to the TOP and IRO Reliability Standards as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We believe that NERC's approach of consolidating requirements and removing redundancies generally has merit and is consistent with Commission policy promoting increased efficiencies in Reliability Standards and reducing requirements that are either redundant with other currently effective requirements or have little reliability benefit.[17]

41. We agree with NERC that the proposed TOP and IRO Reliability Standards would improve reliability by defining an appropriate division of responsibilities between reliability coordinators and transmission operators.[18] Specifically, NERC states that the proposed TOP Reliability Standards will be improved by eliminating multiple TOP standards, resulting in a more concise set of standards. Thus, we believe that NERC's TOP proposal would reduce redundancy and more clearly delineate responsibilities between applicable entities. In addition, we believe that the proposed Reliability Standards provide a comprehensive framework as well as important improvements to ensure that the bulk electric system is operated within pre-established limits while enhancing situational awareness and strengthening operations planning. We believe that the proposed TOP and IRO Reliability Standards address the coordinated efforts to plan and reliably operate the bulk electric system under both normal and abnormal conditions.

42. For these reasons, we propose to approve NERC's revisions to the TOP and IRO Reliability Standards. We also discuss below: (A) Concerns raised in the Remand NOPR plus possible inconsistencies of identifying IROLs; (B) other reliability issues including (1) monitoring of non-bulk electric system facilities; (2) removal of the load-serving entity function from proposed Reliability Standard TOP–001–3; and (3) data exchange capabilities.

A. Remand NOPR Issues

1. Operational Responsibilities and Actions of SOLs and IROLs

43. We propose to find that NERC has adequately addressed the concerns raised by the Commission in the Remand NOPR with respect to the treatment of SOLs in the proposed TOP Reliability Standards. In the Remand NOPR, the Commission expressed concern that the proposed TOP standards did not have a requirement ''for transmission operators to plan and operate within all SOLs. Without a requirement to plan and operate within all SOLs in the proposed standards and by limiting non-IROL SOLs to only those identified by the transmission operator internal to its area, system reliability is reduced and negative consequences can occur outside of the transmission operator's internal area.'' [19] The Commission noted that ''non-IROL SOLs that appear to be excluded from the proposed standard are non-IROL SOLs that are in a transmission operator's area that impact another transmission operator's area or more than one transmission operator's area.'' [20]

44. The Commission believes that the proposed TOP Reliability Standards address the Commission's Remand

[15] The proposed definition of operational planning analysis is ''[a]n evaluation of projected system conditions to assess anticipated (pre-Contingency) and potential (post-Contingency) conditions for next-day operations. The evaluation shall reflect applicable inputs including, but not limited to, load forecasts; generation output levels; Interchange; known Protection System and Special Protection System status or degradation; Transmission outages; generator outages; Facility Ratings; and identified phase angle and equipment limitations. (Operational Planning Analysis may be provided through internal systems or through third-party services.)''

[16] The proposed definition of real-time assessment is ''[a]n evaluation of system conditions using Real-time data to assess existing (pre-Contingency) and potential (post-Contingency) operating conditions. The assessment shall reflect applicable inputs including, but not limited to: Load, generation output levels, known Protection System and Special Protection System status or degradation, Transmission outages, generator outages, Interchange, Facility Ratings, and identified phase angle and equipment limitations. (Real-time Assessment may be provided through internal systems or through third-party services.)''

[17] *Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards,* Order No. 788, 145 FERC ¶ 61,147 (2013).

[18] *See, e.g.,* Order No. 748, 134 FERC ¶ 61,213, at PP 39–40.

[19] Remand NOPR, 145 FERC ¶ 61,158 at P 42.

[20] *Id.* P 51.

NOPR concerns by requiring transmission operators to plan and operate within all SOLs, and to monitor and assess SOL conditions within and outside a transmission operator's area. Specifically, proposed Reliability Standard TOP–001–3, Requirement R14 requires each transmission operator to initiate its operating plan to mitigate a SOL exceedance identified as part of its real-time monitoring or real-time assessment. Proposed Reliability Standard TOP–001–3, Requirement R10 requires each transmission operator to monitor facilities within its transmission operator area as well as certain facilities outside of its transmission operator area to determine SOL exceedances within its transmission operator area during the real-time operations time horizon. In addition, proposed Reliability Standard TOP–001–3, Requirement R15 requires that each transmission operator inform its reliability coordinator of actions taken to resolve a SOL exceedance.[21] To address the concerns of operational planning, proposed Reliability Standard TOP–002–4, Requirement R1 requires each transmission operator to have an operational planning analysis to assess whether its next-day planned operations will exceed any of its SOLs within its area, and Requirement R2 requires the transmission operator to have a next-day operating plan(s) to address any potential SOLs exceedances identified in its operational planning analysis.[22]

45. Further, proposed Reliability Standard IRO–008–2, Requirements R1, R2, R3, R5, and R6 require reliability coordinators to plan and operate within SOLs and IROLs, which we believe work in tandem with the proposed TOP Standards and address the Commission's concern that the previously-proposed Reliability Standards limited ''non-IROL SOLs'' to only those internally identified by the transmission operator. Specific to operational planning, proposed Reliability Standard IRO–008–2, Requirement R1 requires the reliability coordinator to have an operational planning analysis to assess whether its next-day planned operations will exceed SOLs and IROLs within its wide area, and Requirement R2 requires the reliability coordinator to have a coordinated next-day operating plan(s) to address potential SOLs and IROLs exceedances identified in its operational planning analysis while considering the next-day operating plan(s) provided by its transmission operators and balancing authorities.[23] Requirement R3 requires the reliability coordinator to notify impacted entities identified in its operating plan cited in Requirement R2 as to their role in such plan(s). The Commission believes that the consideration of the transmission operators' and balancing authorities' operating plans by the reliability coordinator in its own operating plan provides the necessary situational awareness of all SOLs, internal and external to the transmission operator or balancing authority.

46. In the Remand NOPR, the Commission raised the concern that the then-proposed version of the TOP/IRO Standards did not consider the possibility that additional SOLs could develop or occur in the same-day or real-time operational time horizon, and therefore would pose an operational risk to the interconnected transmission network.[24] To address this concern, Reliability Standard IRO–008–2, Requirement R5 requires each reliability coordinator to notify impacted transmission operators and balancing authorities within its reliability coordinator area and other impacted reliability coordinators when results of a real-time assessment indicate actual or expected conditions that could result in SOL or IROL exceedances, and Requirement R6 requires reliability coordinator notification to impacted transmission operators, balancing authorities and other impacted reliability coordinators when any SOLs or IROLs have been prevented or mitigated.[25]

47. Likewise, based on NERC's explanation, we believe that the proposed Reliability Standards in the immediate proceeding are designed to improve system performance by giving reliability coordinators the authority to direct actions to prevent or mitigate instances of exceeding IROLs. This delineation of responsibilities between reliability coordinators and transmission operators is appropriate because the primary decision-making authority for mitigating IROL exceedances is assigned to reliability coordinators while transmission operators have the primary responsibility for mitigating SOL exceedances.[26] To further support the reliability coordinator's primary responsibility for IROLs to prevent instability, uncontrolled separation, or cascading, proposed Reliability Standard TOP–001–3, Requirement R12 requires that a transmission operator must not operate outside of any identified IROLs for a continuous duration exceeding its associated IROL T_V.[27]

48. In addition, NERC explains that the proposed Reliability Standard IRO–014–3 contains requirements for coordination of interconnection operations at the reliability coordinator level and ensures that each reliability coordinator's operations are coordinated such that they will not adversely affect other reliability coordinators' areas.[28] Proposed Reliability Standard IRO–014–3 requires the reliability coordinator to have and implement operating procedures, processes, or plans for activities that require notification or coordination of actions that may affect adjacent reliability coordinators' areas.

49. Furthermore, the Commission believes the revised definitions of operational planning analysis and real-time assessment are critical components of the proposed TOP and IRO Reliability Standards and, together with the definitions of SOLs, IROLs and operating plans, work to ensure that reliability coordinators, transmission operators and balancing authorities plan and operate the bulk electric system within all SOLs and IROLs to prevent instability, uncontrolled separation, or cascading. In addition, the revised definitions of operational planning analysis and real-time assessment address other concerns raised in the Remand NOPR as well as multiple recommendations in the 2011 Southwest Outage Blackout Report.[29] For example, the definition of operational planning analysis is used in proposed Reliability Standards TOP–002–4, TOP–003–3, IRO–002–4, IRO–008–2, IRO–010–2, and IRO–014–3 to ensure a consistent approach to operations planning for the reliability coordinators, transmission operators and balancing authorities.[30] Further, the proposed revised operational planning analysis definition adds additional detail and clarity, including the evaluation of pre- and post-contingency conditions as well as the evaluation of multiple applicable inputs that are

[21] NERC Petition at 24–25.

[22] NERC Petition at 27.

[23] NERC Petition at 52.

[24] Remand NOPR, 145 FERC ¶ 61,158 at P 55.

[25] NERC Petition at 32.

[26] *See* Remand NOPR, 145 FERC ¶ 61,158 at P 85. Further, currently-effective Reliability Standard IRO–009–1, Requirement R4 states that ''[w]hen actual system conditions show that there is an instance of exceeding an IROL in its Reliability Coordinator Area, the Reliability Coordinator shall, without delay, act or direct others to act to mitigate the magnitude and duration of the instance of exceeding that IROL within the IROL's T_V.''

[27] NERC Petition at 25.

[28] NERC Petition at 33.

[29] NERC Petition at 17–18.

[30] NERC Petition at 19.

absent in the currently-effective definition.

50. Likewise, the definition of real-time assessment is used in the following proposed Reliability Standards: TOP–001–3; TOP–003–3; IRO–002–4; IRO–008–2; IRO–010–2; and IRO–014–3 to ensure a consistent approach to the real-time operation of the Bulk Power System for the reliability coordinators, transmission operators and balancing authorities.[31] The proposed revised real-time assessment definition is the same type of evaluation as the operational planning analysis with the exception that real-time assessment uses real-time data to assess existing conditions and operational planning analysis uses projected system conditions to assess anticipated system conditions.

51. The Commission does note, however, that in Exhibit E (SOL White Paper) of NERC's petition, NERC states that with regard to the SOL concept, the SOL White Paper brings ''clarity and consistency to the notion of establishing SOLs, exceeding SOLs, and implementing Operating Plans to mitigate SOL exceedances.'' [32] The Commission further notes that IROLs, as defined by NERC, are a subset of SOLs that, if violated, could lead to instability, uncontrolled separation, or cascading outages that adversely impact the reliability of the bulk electric system.[33] The Commission agrees with NERC that clarity and consistency are important with respect to establishing and implementing operating plans to mitigate SOL and IROL exceedances. However, the Commission notes that in its 2015 State of Reliability report, NERC states that the Western Interconnection reliability coordinator definition of an IROL has additional criteria that may not exist in other reliability coordinator areas.[34] Based on this information, it is unclear whether NERC regions apply a consistent approach to identifying IROLs. Accordingly, the Commission seeks comment on (1) identification of all regional differences or variances in the formulation of IROLs, (2) the potential reliability impacts of such differences or variations, and (3) the value of providing a uniform approach or methodology to defining and identifying IROLs.

2. Outage Coordination

52. We believe, too, that NERC has addressed the concerns raised in the Remand NOPR with respect to the IRO standards regarding planned outage coordination. In the Remand NOPR, the Commission expressed concern with NERC's proposal because Reliability Standards IRO–008–1, Requirement R3 and IRO–010–1a (subjects of the proposed remand and now withdrawn by NERC) did not require the coordination of outages, noting that outage coordination is a critical reliability function that should be performed by the reliability coordinator.[35]

53. With respect to proposed Reliability Standard IRO–017–1, submitted by NERC for approval in the immediate proceeding, Requirement R1 requires each reliability coordinator to develop, implement and maintain an outage coordination process for generation and transmission outages within its reliability coordinator area. Under Requirement R2, each transmission operator and balancing authority, in turn, would perform the functions specified in its reliability coordinator's outage coordination process. Further, Requirement R3 requires each planning coordinator and transmission planner to provide its planning assessment to the relevant reliability coordinators and to work together to solve any issues or conflicts with planned outages among the applicable entities under Requirement R4. Additionally, proposed Reliability Standard IRO–014–3, Requirement R1, Part 1.4 requires reliability coordinators to include the exchange of planned and unplanned outage information to support operational planning analyses and real-time assessments in the operating procedures, processes, and plans for activities that require coordination with adjacent reliability coordinators. Further, the proposed revised definitions of operational planning analysis and real-time assessments require that these evaluations of system conditions include transmission and generation outages. We believe that these proposed standards and revised definitions adequately address our concerns with respect to outage coordination as outlined in the Remand NOPR.

B. Other Reliability Issues

54. While proposing to approve the TOP and IRO Reliability Standards, the Commission seeks clarifying comments addressing three additional issues: (1) Monitoring of non-bulk electric system facilities; (2) removal of the load-serving entity as an applicable entity for proposed Reliability Standard TOP–001–3; and (3) data exchange capabilities. Based on comments and information received on these issues, the Commission may issue directives as appropriate.

1. Monitoring of Non-Bulk Electric System Facilities

NERC Petition

55. NERC explains how the proposed Reliability Standards address the recommendations in the 2011 Southwest Outage Blackout Report, in particular with respect to Finding 17 concerning the impact of sub-100 kV facilities on the reliability of the interconnected transmission network. Finding 17 states:

> WECC RC and affected TOPs and BAs do not consistently recognize the adverse impact sub-100 kV facilities can have on BPS reliability. As a result, sub-100 kV facilities might not be designated as part of the BES, which can leave entities unable to address the reliability impact they can have in the planning and operations time horizons. If, prior to September 8, 2011, certain sub-100 kV facilities had been designated as part of the BES and, as a result, were incorporated into the TOPs' and RC's planning and operations studies, or otherwise had been incorporated into these studies, cascading outages may have been avoided on the day of the event.

Recommendation 17 states:

> WECC, as the RE, should lead other entities, including TOPs and BAs, to ensure that all facilities that can adversely impact BPS reliability are either designated as part of the BES or otherwise incorporated into planning and operations studies and actively monitored and alarmed in [real-time contingency analysis] systems.

NERC states that proposed Reliability Standard IRO–002–4, Requirement R3 addresses monitoring of non-bulk electric system facilities by requiring each reliability coordinator to monitor facilities and necessary non-bulk electric system facilities in order to identify SOL and IROL exceedances within its reliability coordinator area.[36] In addition, NERC states that proposed Reliability Standards IRO–010–2,

[31] NERC Petition at 18.

[32] NERC Petition, Exhibit E, ''White Paper on System Operating Limit Definition and Exceedance Clarification'' at 1.

[33] NERC Glossary of Terms defines Interconnection Reliability Operating Limit as ''[a] System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Bulk Electric System.''

[34] NERC 2015 State of Reliability report at 44, available at *www.nerc.com. See also* WECC Reliability Coordination System Operating Limits Methodology for the Operations Horizon, Rev. 7.0 (effective March 3, 2014) at 18 (stating that ''SOLs qualify as IROLs when . . . studies indicate that instability, Cascading, or uncontrolled separation may occur resulting in uncontrolled interruption of load equal to or greater than 1000 MW''), available at *https://www.wecc.biz/Reliability/PhaseII%20WECC%20RC%20SOL%20Methodology%20FINAL.pdf.*

[35] Remand NOPR, 145 FERC ¶ 61,158 at P 90.

[36] NERC Petition at 61.

Requirement R1.1 and TOP–003–3, Requirement R1.1 address non-bulk electric system data by specifically requiring reliability coordinators and transmission operators to incorporate any non-bulk-electric system data as deemed necessary into their operational planning analyses, real-time monitoring, and real-time assessments.[37]

56. However, NERC explains that the standard drafting team concluded it is unnecessary to include non-bulk electric system monitoring in proposed Reliability Standard TOP–001–3, Requirement R10 for the transmission operator, in a similar fashion as proposed Reliability Standard IRO–002–4, Requirement R3 for the reliability coordinator. Instead, the standard drafting team determined that any non-bulk electric system facility elements that are necessary for reliable operation of the bulk electric system would be included in the bulk electric system through the exception process provided in Appendix 5C to the NERC Rules of Procedure. NERC states that the exception process provides the means for transmission operators and reliability coordinators to include elements in the bulk electric system that are necessary for the reliable operation of the interconnected transmission system but not identified in the bulk electric system definition.[38]

Commission Proposal

57. We propose to find that NERC has adequately addressed the 2011 Southwest Outage Blackout Report recommendation in connection with sub-100 kV facilities for proposed Reliability Standards IRO–002–4, Requirement R3, IRO–010–2, Requirement R1.1 and TOP–003–3, Requirement R1.1. In doing so, we rely primarily on the proposed responsibility of the reliability coordinator to monitor such facilities to the extent necessary.

58. However, the transmission operator may have a more granular perspective than the reliability coordinator of its necessary non-bulk electric system facilities to monitor in order to identify SOL and IROL exceedances, and it is not clear whether or how the transmission operator would communicate any insight it may have to the reliability coordinator to ensure monitoring of all necessary facilities. Thus, the Commission seeks comment on how NERC will ensure that the reliability coordinator will receive information from the transmission operator regarding which non-bulk electric system facilities should be monitored. Further, as stated above, Recommendation 17 states ''. . . to ensure that all facilities that can adversely impact BPS reliability are either designated as part of the BES or *otherwise incorporated into planning and operations studies and actively monitored and alarmed in [real-time contingency analysis] systems.''* (emphasis added.) Including such non-bulk electric system facilities in the definition of bulk electric system through the Rules of Procedure exception process could be an option to address any potential gaps for monitoring facilities. However, there may be potential efficiencies gained by using a more expedited method to include non-bulk electric system that requires monitoring. Thus, the Commission seeks comments on whether the exception process should be used exclusively in all cases.

59. Alternatively, we seek comment regarding whether this concern should be addressed through a review process of the transmission operators' systems to determine if there are important non-bulk-electric system facilities that require monitoring. For example, Commission staff could work with NERC, Regional Entities and applicable entities to review their system modeling and perform an analysis to identify non-bulk electric system facilities that need monitoring. Accordingly, we seek comment from NERC and other interested persons on these alternatives.

2. Removal of Load-Serving Entity Function From TOP–001–3

NERC Petition

60. Proposed Reliability Standard TOP–001–3, Requirement R3 requires that each balancing authority, generator operator and distribution provider shall comply with each operating instruction issued by its transmission operator, and proposed Reliability Standard TOP–001–3, Requirement R4 requires that each balancing authority, generator operator and distribution provider inform its transmission operator of its inability to comply with an operating instruction. Proposed Reliability Standard TOP–001–3, Requirement R5 requires that each transmission operator, generator operator and distribution provider shall comply with each operating instruction issued by its balancing authority, and proposed Reliability Standard TOP–001–3, Requirement R6 requires that each transmission operator, generator operator and distribution provider inform its balancing authority of its inability to comply with an operating instruction.[39]

61. In its petition, NERC states that, during the standard drafting process, the load-serving entity function was removed from proposed Reliability Standard TOP–001–3, Requirements R3 through R6. NERC explains that the removal of the load-serving entity as an applicable entity was based on the November 2014 NERC Board of Trustees action to remove load-serving entity as a functional entity from NERC's Rules of Procedure.[40] Since that time, the Commission has issued an order in Docket No. RR15–4–000 that denied, without prejudice, NERC's proposal to remove the load-serving entity as a functional entity under NERC's Risk Based Registration petition and directed NERC to submit a compliance filing to address this issue.[41]

62. On May 12, 2015, NERC supplemented its initial petition with additional explanation for the removal of the load-serving entity function from proposed Reliability Standard TOP–001–3. NERC explains that the proposed standard gives transmission operators and balancing authorities the authority to direct the actions of certain other functional entities by issuing an operating instruction to maintain reliability during real-time operations. According to NERC, load-serving entities are not included in the list of entities that must comply with a transmission operator's or balancing authority's operating instructions. NERC contends that the exclusion is justified because none of the functions performed by load-serving entities, as described in the NERC Functional Model, necessitate that load-serving entities be subject to a requirement to comply with such operating instructions to ensure that a transmission operator or balancing authority can maintain reliability.[42] NERC adds that a load-serving entity does not own or operate bulk electric system facilities or equipment or the facilities or equipment used to serve end-use customers and its NERC Functional Model tasks are limited in scope. As indicated by the NERC Functional Model, the load-serving entity does not play a role in shedding load in real-time.

63. NERC also explains in its supplemental filing that the standard drafting team did not identify any circumstances under which a

[37] *Id.* at 40.

[38] *Id.* at 47–48.

[39] NERC Petition at 22–23.

[40] NERC Petition, Exhibit K, Consideration of Comments January 7, 2015, at 2.

[41] *North American Electric Reliability Corp.,* 150 FERC ¶ 61,213 (2015).

[42] NERC Supplemental Filing at 6.

transmission operator or balancing authority would need to issue an operating instruction to a load-serving entity to prevent instability, uncontrolled separation, or cascading outages. NERC contends that, with respect to the load-serving entity's role as a provider of information to other functional entities, that role is primarily carried out ahead of real-time and would not be the subject of an operating instruction. Additionally, NERC states that the load-serving entity's real-time role with respect to voluntary load curtailment does not necessitate requiring load-serving entities to comply with operating instructions issued by a transmission operator or balancing authority. In order to maintain reliability in their areas and prevent instability, uncontrolled separation, or cascading outages, there may be circumstances under which transmission operators and balancing authorities need to shed load. NERC states that such action is implemented in real-time to address imminent or existing reliability issues such as an exceedance of an IROL or SOL, or a voltage problem. According to NERC, due to the urgent nature of these circumstances, the reliability coordinator, balancing authority, or transmission operator may issue operating instructions directly to the distribution provider for physical implementation of load shedding (except when this can be accomplished directly by the transmission operator).[43]

Commission Proposal

64. NERC proposes the removal of the load-serving entity function from proposed Reliability Standard, TOP–001–3, Requirements R3 through R6, as a recipient of an operating instruction from a transmission operator or balancing authority. However, the Commission notes that the issuance and compliance of operating instructions under proposed Reliability Standard TOP–001–3 is not limited to the real-time operations time horizon only.[44]

65. Further, if a transmission operator or balancing authority would issue an operating instruction to a load-serving entity such as to carry out interruptible load curtailments, it is not clear what entity would respond to this operating instruction if the load-serving entity is removed from proposed TOP–001–3, Requirements R3 through R6.[45]

66. The Commission notes that NERC is required to make a compliance filing in July 2015 in Docket No. RR15–4–000. The Commission's decision on that filing will guide any action in this proceeding.

3. Data Exchange Capabilities

NERC Petition

67. In Order No. 808, the Commission approved Reliability Standards COM–001–2 (Communications) and COM–002–4 (Operating Personnel Communications Protocols).[46] In Order No. 808, the Commission explained that it had raised concerns in the underlying NOPR proposing to approve these COM Reliability Standards (COM NOPR) whether COM–001–2 addresses ''facilities that directly exchange or transfer data.'' [47] In response to the COM NOPR, NERC and other commenters clarified that Reliability Standard COM–001–2, which covers communications capability requirements, is not intended to address data exchanges or transfers.[48] As the Commission noted in Order No. 808, NERC maintained that Reliability Standard COM–001–2 need not include requirements regarding data exchange capability, ''because such capability is covered under other existing or proposed standards.'' [49] The Commission did not make any determinations regarding facilities used for data exchange capability in Order No. 808 and, based on NERC's explanation in its supplemental filing, the Commission stated that it would address these issues in this TOP and IRO rulemaking proceeding.[50]

68. In general, it appears that facilities for data exchange capabilities are addressed in NERC's proposal. For example, proposed Reliability Standard TOP–001–3, Requirements R19 and R20 require some form of ''data exchange capabilities'' for the transmission operator and balancing authority, respectively. Similarly, proposed Reliability Standard IRO–002–4, Requirement R1 requires some form of ''data exchange capabilities'' for the reliability coordinator. However, we seek additional explanation from NERC regarding how it addresses data exchange capabilities in the TOP and IRO Reliability Standards in the following areas: (a) Redundancy and diverse routing; and (b) testing of the alternate or less frequently used data exchange capability.

(i) Redundancy and Diverse Routing of Data Exchange Capabilities

Background

69. The terms ''redundant'' and ''diverse routing'' of data exchange capabilities appear in Reliability Standard COM–001–1, where the reliability coordinator, transmission operator and balancing authority are required to have telecommunication facilities that are ''redundant'' and ''diversely routed'' to maintain Bulk-Power System reliability.[51] NERC added two definitions (Interpersonal Communication and Alternative Interpersonal Communication) to Reliability Standard COM–001–2 that addressed redundant and diverse routing of communications between persons and proposed to eliminate the need to use phrases such as ''redundant and diversely routed'' that it described as ambiguous.[52] With respect to the data exchange capabilities, NERC stated that several proposed or existing standards ''provided the necessary mandatory Requirements to ensure proper data exchange is occurring.'' [53] NERC also asserted that four proposed IRO and TOP standards ''include specific coverage related to data exchange,'' and ''collectively require data exchange capability'' for reliability coordinators, transmission operators, balancing authorities, generator operators, and distribution providers.[54]

70. In Order No. 808, the Commission approved NERC's definition of the terms Interpersonal Communication and Alternative Interpersonal Communication. NERC defines Interpersonal Communication as ''[a]ny medium that allows two or more individuals to interact, consult, or

[43] NERC Supplemental Filing at 9.

[44] NERC TOP/IRO Petition, Exhibit A includes the following time horizons for proposed Reliability Standard TOP–001–3, Requirements R3 through R6: ''*[Time Horizon: Same-Day Operations, Real-Time Operations].*''

[45] NERC Glossary of Terms defines Interruptible Load as the ''[d]emand that the end-use customer makes available to its Load-Serving Entity via contract or agreement for curtailment.''

[46] *Communications Reliability Standards,* Order No. 808, 151 FERC ¶ 61,039 (2015).

[47] Order No. 808, 151 FERC ¶ 61,039 at P 54, *quoting Communications Reliability Standards, Notice of Proposed Rulemaking,* 148 FERC ¶ 61,210, at P 33 (2014).

[48] *Id.* P 48.

[49] *Id. See also* NERC's Supplemental Comments in Response to Notice of Proposed Rulemaking, *Communications Reliability Standards,* Docket No. RM14–13–000 at 3.

[50] Order No. 808, 151 FERC ¶ 61,039 at P 54.

[51] COM–001–1.1 Standard, Requirement R1 requires that ''[e]ach Reliability Coordinator, Transmission Operator and Balancing Authority shall provide adequate and reliable telecommunications facilities for the exchange of Interconnection and operating information:'' and R1.4 requires that ''[w]here applicable, these facilities shall be redundant and diversely routed.''

[52] NERC COM Petition at 16.

[53] NERC COM Petition at 16.

[54] NERC Supp. COM Comments at 3. NERC identified these same four standards in its Initial Comments, but provides a more detailed discussion of the proposed standards and their status in its Supplemental Comments.

exchange information.'' NERC defines Alternative Interpersonal Communication as ''[a]ny Interpersonal Communication that is able to serve as a substitute for, and does not utilize the same infrastructure (medium) as, Interpersonal Communication used for day-to-day operation.'' [55] Reliability Standard COM–001–2, Requirements R1 through R6 require that reliability coordinators, transmission operators, and balancing authorities have Interpersonal Communication capabilities and Alternative Interpersonal Communication capabilities in place with other defined entities (*e.g.,* other interconnected transmission operators). In its COM Petition, NERC maintained that the defined terms make clear that an entity's communication capability must be redundant and that each of the capabilities must not utilize the same medium, while eliminating the need to use ambiguous phrases such as ''redundant and diversely routed'' (as used in the prior version of the standard governing communications capability).[56]

71. As noted above, NERC indicated in its response to the COM NOPR that Reliability Standard COM–001–2 need not include requirements regarding data exchange capability because such capability is or would be covered by other existing or proposed standards. Specifically, NERC explained that data exchange is addressed by the currently enforceable Reliability Standards IRO–010–1a and IRO–014–1. In addition, NERC stated that data exchange transfer capabilities are directly addressed in proposed Reliability Standard TOP–001–3, as well as in proposed Reliability Standard IRO–002–4, Requirement R1. NERC also stated that the data itself is covered in proposed Reliability Standard IRO–010–2 and proposed Reliability Standard TOP–003–3.[57]

NERC Petition

72. In the petition in this proceeding, NERC states that in proposed Reliability Standard TOP–001–3, ''Requirements R19 and R20 provide that each Transmission Operator (Requirement R19) and Balancing Authority (Requirement R20) must have data exchange capabilities with the entities from which it needs data in order to maintain reliability in its area.'' [58] NERC states that Requirements R19 and R20 are consistent with proposed Reliability Standard IRO–002–4, Requirement R1, which provides that each reliability coordinator must have data exchange capabilities with its balancing authorities, transmission operators, and other entities it deems necessary. Requirements R19 and R20 state:

> R19. Each Transmission Operator shall have data exchange capabilities with the entities that it has identified that it needs data from in order to maintain reliability in its Transmission Operator Area.
>
> R20. Each Balancing Authority shall have data exchange capabilities with the entities that it has identified that it needs data from in order to maintain reliability in its Balancing Authority Area.

Reliability Standard IRO–002–4 Requirement R1 states:

> R1. Each Reliability Coordinator shall have data exchange capabilities with its Balancing Authorities and Transmission Operators, and with other entities it deems necessary, for it to perform its Operational Planning Analyses, Real-time monitoring, and Real-time Assessments.

In addition, NERC states that IRO–002–4, Requirement R4 requires ''each Reliability Coordinator must have monitoring systems . . . over a redundant infrastructure.'' [59]

Commission Proposal

73. The Commission agrees that proposed Reliability Standard TOP–001–3, Requirements R19 and R20 require some form of ''data exchange capabilities'' for the transmission operator and balancing authority, respectively, and that proposed Reliability Standard TOP–003–3 addresses the operational data itself needed by the transmission operator and balancing authority. In addition, the Commission agrees that Reliability Standard IRO–002–4, Requirement R1 requires ''data exchange capabilities'' for the reliability coordinator and that proposed Reliability Standard IRO–010–2 addresses the operational data needed by the reliability coordinator. Further, the Commission agrees that proposed Reliability Standard IRO–002–4 Requirement R4 requires a redundant infrastructure for system monitoring. However, it is not clear whether redundancy and diverse routing of data exchange capabilities (or an equally effective alternative that eliminates the ambiguity of ''redundancy'' and ''diversely routed'') are adequately addressed in proposed Reliability Standards TOP–001–3 and IRO–002–4 for the reliability coordinator, transmission operator, and balancing authority.

74. Unlike the approach taken with COM–001–2, which requires redundancy and use of a diverse medium through the definitions of Interpersonal Communication and Alternative Interpersonal Communication, proposed Reliability Standards TOP–001–3 and IRO–002–4 do not appear to address redundancy and diverse routing of data exchange capabilities. While Reliability Standard IRO–002–4, Requirement R4 requires reliability coordinators to have a redundant infrastructure for system monitoring, it is not clear whether this requirement addresses redundancy and diverse routing of other forms of data exchange capabilities. For example, a redundant infrastructure used for system monitoring could be a subset of the total data exchange capabilities used by reliability coordinators and not include redundant infrastructure for capabilities such as control of equipment or real-time assessments. The Commission seeks explanation or clarification from NERC whether and how the proposed Reliability Standards in the immediate proceeding address redundancy and diverse routing or an equally effective alternative to redundancy and diverse routing. Further, if NERC or others believe that redundancy and diverse routing are not addressed, we seek comment on whether there are associated reliability risks of the interconnected transmission network for any failure of data exchange capabilities that are not redundant and diversely routed.

(ii) Testing of the Alternate or Less Frequently Used Data Exchange Capability

NERC Petition

75. Reliability Standard COM–001–2, Requirement R9 (approved in Order No. 808) requires each reliability coordinator, transmission operator and balancing authority to test its Alternative Interpersonal Communication capability at least once each calendar month and to initiate action to repair or designate a replacement Alternative Interpersonal Communication capability.[60]

76. As noted above, proposed Reliability Standards TOP–001–3, Requirements R19 and R20 and IRO–002–4, Requirement R1 address primary

[55] Order No. 808, 151 FERC ¶ 61,039, at P 45 n.54.

[56] May 14, 2014, NERC COM Petition, Docket No. RM14–13–000 at 15–16.

[57] NERC COM Supplemental Comments at 3.

[58] NERC Petition at 26.

[59] *Id.* at 31.

[60] Reliability Standard COM–001–2, Requirement R9 states: ''[e]ach Reliability Coordinator, Transmission Operator, and Balancing Authority shall test its Alternative Interpersonal Communication capability at least once each calendar month. If the test is unsuccessful, the responsible entity shall initiate action to repair or designate a replacement Alternative Interpersonal Communication capability within 2 hours.''

data exchange capabilities of the transmission operator, balancing authority and reliability coordinator, respectively. However, the proposed TOP and IRO Reliability Standards do not appear to address testing requirements of alternative or less frequently used data exchange capabilities.

Commission Proposal

77. The Commission is concerned that the proposed TOP and IRO Reliability Standards do not appear to address testing requirements for alternative or less frequently used mediums for data exchange to ensure they would properly function in the event that the primary or more frequently used data exchange capabilities failed. The Commission seeks comment on whether and how the TOP and IRO Reliability Standards address the testing of alternative or less frequently used data exchange capabilities for the transmission operator, balancing authority and reliability coordinator. If NERC or others believe that testing requirements for alternative or less frequently used mediums for data exchange is not necessary, we seek comment on why it is not necessary.

III. Information Collection Statement

78. The collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) regulations under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[61] OMB's regulations require approval of certain informational collection requirements imposed by agency rules.[62] 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.

79. We solicit comments on the need for this information, 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. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

Public Reporting Burden: The Commission proposes to approve revisions to the Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards. These revisions will impose new or revised, or retire requirements for the balancing authority, transmission operator, generator operator, distribution provider, generator owner, load-serving entity, purchasing-selling entity, transmission service provider, interchange authority, transmission owner, reliability coordinator, planning coordinator, and transmission planner functions. The Commission based its paperwork burden estimates on the NERC compliance registry as of May 15, 2015. According to the registry, there are 11 reliability coordinators, 99 balancing authorities, 450 distribution providers, 839 generator operators, 80 purchasing-selling entities, 446 load-serving entities, 886 generator owners, 320 transmission owners, 24 interchange authorities, 75 transmission service providers, 68 planning coordinators, 175 transmission planners and 171 transmission operators. The estimates are based on the change in burden from the current standards to the proposed. Not all entity types would experience an increase in burden, which is reflected by absence of those entities from the chart below.

Collectively, the proposed TOP and IRO Reliability Standards along with revised definitions provide for certain enhancements over the currently-effective TOP and IRO Reliability Standards.[63] For example, the revised definitions of operational planning analysis and real-time assessment, which are applicable to multiple proposed TOP and IRO Reliability Standards, were enhanced and provide significant additional detail over the currently-effective definitions such as including inputs that were identified as contributing to past outages on the bulk electric system.[64] As another example, the new proposed Reliability Standard IRO–017–1 establishes operational planning requirements for each reliability coordinator to implement an outage coordination process for its area that address a reliability gap identified in the Southwest Outage Blackout Report and in the Remand NOPR.[65] The Commission estimates the annual reporting burden and cost as follows:

RM15–16–000 (Transmission Operations Reliability Standards, Interconnection Reliability Operations and Coordination Reliability Standards)

	Number of respondents[66]	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[67]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC–725A						
TOP–001–3	196 (TOP & BA)	1	196	96 hrs. $6,369	18,816 hrs., $1,248,441	96 hrs., $6,369.
TOP–002–4	196 (TOP & BA)	1	196	284 hrs., $18,843	55,664 hrs., $3,693,306	284 hrs., $18,843.
TOP–003–3	196 (TOP & BA)	1	196	230 hrs., $15,260	45,080 hrs., $2,991,058	230 hrs., $15,260.
Sub-Total for FERC–725A.					123,252 hrs., $7,932,806	
FERC–725Z						
IRO–001–4[68]	177 (RC & TOP)	1	177	0 hrs. $0	0 hrs. $0	0 hrs. $0.
IRO–002–4	11 (RC)	1	11	24 hrs., $1,592	264 hrs., $17,516	24 hrs., $1,592.
IRO–008–2	11 (RC)	1	11	228 hrs., $15,127	2,508 hrs., $166,405	228 hrs., $15,127.
IRO–010–2	11 (RC)	1	11	36 hrs., $2,388	396 hrs., $26,274	36 hrs., $2,388.
IRO–014–3	11 (RC)	1	11	12 hrs., $796	132 hrs., $8,758	12 hrs., $796.

[61] 44 U.S.C. 3507(d) (2012).

[62] 5 CFR 1320.11 (2014).

[63] NERC Petition at 10.

[64] NERC Petition at 14.

[65] NERC Petition at 17.

RM15–16–000 (TRANSMISSION OPERATIONS RELIABILITY STANDARDS, INTERCONNECTION RELIABILITY OPERATIONS AND COORDINATION RELIABILITY STANDARDS)—Continued

	Number of respondents[66] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response[67] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
IRO–017–1	180 (RC, PC, & TP)	1	180	218 hrs., $14,464	39,240 hrs., $2,603,574	218 hrs., $14,464.
Sub-Total for FERC–725Z.					42,540 hrs., $2,822,529.00.	
Retirement of current standards currently in FERC–725A.	457 (RC, TOP, BA, TSP, LSE, PSE, & IA).	1	457	−223 hrs., −$14,796	−101,911 hrs., −$6,761,794.	−223 hrs., −$14,796.
Net Total of NOPR in RM15–16.					63,881 hrs, $3,993,540.	

Title: FERC–725Z, Mandatory Reliability Standards: IRO Reliability Standards, and FERC–725A, Mandatory Reliability Standards for the Bulk-Power System

Action: Proposed Changes to Collections.

OMB Control Nos: 1902–0276 (FERC–725Z); 1902–0244(FERC–725A)

Respondents: Business or other for-profit and not-for-profit institutions.

Frequency of Responses: On-going.

80. *Necessity of the Information and Internal review:* The Commission has reviewed the requirements pertaining to the proposed Reliability Standards TOP–001–3, TOP–002–4, TOP–003–3, IRO–001–4, IRO–002–4, IRO–008–2, IRO–010–2, IRO–014–3, and IRO–017–1 and made a determination that the proposed requirements of these standards are necessary to implement section 215 of the FPA. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

81. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office 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].

82. Comments concerning the information collections proposed in this NOPR and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference OMB Control Nos. 1902–0276 (FERC–725Z) and 1902–0244 (FERC–725A)) in your submission.

IV. Environmental Analysis

83. 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.[69] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[70] The actions approved herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Analysis

84. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of Proposed Rules that will have significant economic impact on a substantial number of small entities.[71] The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[72] The SBA revised its size standard for electric utilities (effective January 22, 2014) to a standard based on the number of employees, including affiliates (from a standard based on megawatt hours).[73] Proposed Reliability Standards TOP–001–3, TOP–002–4, TOP–003–3, IRO–001–4, IRO–002–4, IRO–008–2, IRO–010–2, IRO–014–3, and IRO–017–1 are expected to impose an additional burden on 196 entities (reliability coordinators, transmission operators, balancing authorities, transmission service providers, and planning authorities). Comparison of the applicable entities with the Commission's small business data indicates that approximately 82 of these entities are small entities that will be affected by the proposed Reliability Standards.[74] As discussed above, proposed Reliability Standards TOP–001–3, TOP–002–4, TOP–003–3, IRO–001–4, IRO–002–4, IRO–008–2, IRO–010–2, IRO–014–3, and IRO–017–1 will serve to enhance reliability by imposing mandatory requirements for operations planning, system monitoring, real-time actions, coordination between

[66] The number of respondents is the number of entities for which a change in burden from the current standards to the proposed exists, not the total number of entities from the current or proposed standards that are applicable.[67] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information, as of April 1, 2015, for an electrical engineer ($66.35/hour). These figures are available at *http://bls.gov/oes/current/naics3_221000.htm#17-0000.*[68] IRO–001–4 is a revised standard with no increase in burden.

[69] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[70] 18 CFR 380.4(a)(2)(ii).

[71] 5 U.S.C. 601–12.

[72] 13 CFR 121.101 (2013).

[73] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77343 (Dec. 23, 2013).

[74] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this NOPR, we are using a 750 employee threshold for each affected entity to conduct a comprehensive analysis.

applicable entities, and operational reliability data. The Commission estimates that each of the small entities to whom the proposed Reliability Standards TOP–001–3, TOP–002–4, TOP–003–3, IRO–001–4, IRO–002–4, IRO–008–2, IRO–010–2, IRO–014–3, and IRO–017–1 applies will incur costs of approximately $147,364 (annual ongoing) per entity. The Commission does not consider the estimated costs to have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this proposal.

VI. Comment Procedures

85. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due August 24, 2015. Comments must refer to Docket No. RM15–16–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

86. 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.

87. 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.

88. 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

89. 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.

90. 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 of this document, excluding the last three digits, in the docket number field.

91. 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 in 18 CFR Part 40

Reliability standards.

By direction of the Commission.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15433 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket Nos. RM15–7–000, RM15–12–000, and RM15–13–000]

Revisions to Emergency Operations Reliability Standards; Revisions to Undervoltage Load Shedding Reliability Standards; Revisions to the Definition of ''Remedial Action Scheme'' and Related Reliability Standards

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve Reliability Standards and definitions of terms submitted in three related petitions by the North American Electric Reliability Corporation (NERC), the Commission-approved Electric Reliability Organization. The Commission proposes to approve Reliability Standards EOP–011–1 (Emergency Operations) and PRC–010–1 (Undervoltage Load Shedding). According to NERC, the proposed Reliability Standards consolidate, streamline and clarify the existing requirements of certain currently-effective Emergency Preparedness and Operations (EOP) and Protection and Control (PRC) standards. The Commission also proposes to approve NERC's revised definition of the term ''Remedial Action Scheme'' as set forth in the NERC Glossary of Terms Used in Reliability Standards, and modifications of specified Reliability Standards to incorporate the revised definition. Further, the Commission proposes to approve the proposed implementation plans, and the retirement of certain currently-effective Reliability Standards. The Commission discusses concerns regarding several of NERC's proposals and, depending on the comments provided in response, the Commission may direct NERC to develop further modifications to address the concerns and possibly delay the retirement of one currently-effective standard.

DATES: Comments are due August 24, 2015.

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:

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission proposes to approve Reliability Standards and definitions of terms submitted in three related petitions by the North American Electric Reliability Corporation (NERC), the Commission-approved Electric Reliability Organization (ERO). In particular, the Commission proposes to approve Reliability Standards EOP–

[1] 16 U.S.C. 824o.

011–1 (Emergency Operations) and PRC–010–1 (Undervoltage Load Shedding). NERC explains that the proposed Reliability Standards consolidate, streamline, and clarify the existing requirements of certain currently-effective Emergency Preparedness and Operations (EOP) and Protection and Control (PRC) standards. The Commission also proposes to approve NERC's revised definition of the term ''Remedial Action Scheme'' as set forth in the NERC Glossary of Terms Used in Reliability Standards (NERC Glossary), and modifications of specified Reliability Standards to incorporate the revised definition. Further, the Commission proposes to approve assigned violation risk factors and violation severity levels, proposed implementation plans, and the retirement of certain currently-effective Reliability Standards. The Commission discusses concerns regarding several of NERC's proposals and, depending on the comments provided in response, the Commission may direct NERC to develop further modifications to address the concerns and possibly delay the retirement of one currently-effective standard.

I. Background

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[2] Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight or by the Commission independently. In 2006, the Commission certified NERC as the ERO pursuant to FPA section 215.[3]

3. On March 16, 2007, the Commission issued Order No. 693, approving 83 of the 107 Reliability Standards filed by NERC, including initial versions of EOP–001, EOP–002, and EOP–003.[4] In addition, the Commission directed NERC to develop certain modifications to the EOP standards. In Order No. 693, the Commission also approved several Undervoltage Load Shedding (UVLS)-related Reliability Standards, including PRC–010–0, PRC–021–1 and PRC–022–1.[5] Also, the Commission directed NERC to modify Reliability Standard PRC–010–0 to develop an ''integrated and coordinated'' approach to all protection systems.[6] In Order No. 693, the Commission approved the NERC Glossary, including NERC's currently-effective Special Protection System and Remedial Action Scheme definitions.

II. NERC Petitions

4. NERC submitted three related petitions that we address together in this notice of proposed rulemaking (NOPR).[7]

A. NERC EOP Petition—Proposed Reliability Standard EOP–011–1 (Docket No. RM15–7–000)

5. On December 29, 2014, NERC submitted a petition seeking Commission approval of proposed Reliability Standard EOP–011–1 and a revised definition of ''Energy Emergency.'' NERC explains that proposed Reliability Standard EOP–011–1 consolidates the requirements in three existing Reliability Standards: EOP–001–2.1b, EOP–002–3.1 and EOP–003–2 ''into a single Reliability Standard that clarifies the critical requirements for Emergency Operations while ensuring strong communication and coordination across the functional entities.'' [8] NERC seeks retirement of Reliability Standards EOP–001–2.1b, EOP–002–3.1 and EOP–003–2, as well as the approval of the associated implementation plan and violation risk factors and violation severity levels for Reliability Standard EOP–011–1 detailed in the petition. NERC also asserts that proposed Reliability Standard EOP–011–1 satisfies seven Commission directives set forth in Order No. 693.[9]

6. NERC states that the purpose of proposed Reliability Standard EOP–011–1 is ''to address the effects of operating Emergencies by ensuring each Transmission Operator and Balancing Authority has developed Operating Plans to mitigate operating Emergencies, and that those plans are coordinated within a Reliability Coordinator area.'' [10] NERC notes that Requirements R2 and R6 of the proposed Reliability Standard incorporate Attachment 1, which describes three energy emergency levels used by the reliability coordinator and the process for communicating the condition of a balancing authority experiencing an energy emergency.[11]

7. Proposed Reliability Standard EOP–011–1 includes six requirements, and is applicable to balancing authorities, reliability coordinators and transmission operators. Requirements R1 and R2 require transmission operators and balancing authorities to develop, maintain and implement reliability coordinator-reviewed operating plans to mitigate operating, capacity and energy emergencies.[12] Requirement R1 specifies elements for the plans ''as applicable,'' which is intended to provide flexibility to account for regional differences and pre-existing emergency mitigation methods. NERC states that the requirement for transmission operators and balancing authorities to maintain operating plans includes the expectation that the plans are current and up-to-date.[13]

8. Requirement R3 requires reliability coordinators to review the operating plans submitted by transmission operators and balancing authorities and is designed to ensure that there is appropriate coordination of reliability risks identified in the operating plans. In reviewing operating plans, reliability coordinators shall consider compatibility, coordination and inter-dependency with other entity operating plans and notify transmission operators and balancing authorities if revisions to their operating plans are necessary.[14]

9. Requirement R4 requires transmission operators and balancing authorities to resolve any issues identified by the reliability coordinator and resubmit their revised operating

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[2] 16 U.S.C. 824o.

[3] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[4] *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).

[5] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 1509, 1560 and 1565. The Commission neither approved nor remanded Reliability Standard PRC–020–1, explaining that the standard only applied to Regional Reliability Organizations. *Id.* P 1555.

[6] *Id.* P 1509.

[7] The proposed EOP and PRC Reliability Standards are not attached to this notice of proposed rulemaking, nor are the additional standards that NERC proposes to modify to incorporate the revised term Remedial Action Scheme. The proposed Reliability Standards are available on the Commission's eLibrary document retrieval system in the identified dockets and on the NERC Web site, *www.nerc.com.*

[8] NERC EOP Petition at 3.

[9] *Id.* at 12–18.

[10] *Id.* at 2.

[11] Attachment 1 describes three alert levels: Energy Emergency Alert Level 1 (all available generation resources in use, concern about sustaining required contingency reserves); Energy Emergency Alert Level 2 (load management procedures in effect, energy deficient balancing authority implements its emergency Operating Plan but maintains minimum contingency reserve requirements); and Energy Emergency Alert Level 3 (firm load interruption is imminent or in process, energy deficient balancing authority unable to maintain minimum contingency reserve requirements).

[12] Operating Plan is defined in the NERC Glossary as a ''document that identifies a group of activities that may be used to achieve some goal. An Operating Plan may contain Operating Procedures and Operating Processes. A company-specific system restoration plan that includes an Operating Procedure for black-starting units, Operating Processes for communicating restoration progress with other entities, etc., is an example of an Operating Plan.''

[13] NERC EOP Petition at 8–9.

[14] *Id.* at 10–11.

plans within a time period specified by the reliability coordinator. Requirement R5 requires each reliability coordinator to notify balancing authorities and transmission operators in its area, and neighboring reliability coordinators, within thirty minutes of receiving an emergency notification. Requirement R6 requires a reliability coordinator with a balancing authority experiencing a potential or actual energy emergency to declare an energy emergency alert in accordance with Attachment 1.

10. Proposed Reliability Standard EOP–011–1 also includes the following revised definition of Energy Emergency:

> Energy Emergency—A condition when a Load-Serving Entity or Balancing Authority has exhausted all other resource options and can no longer meet its expected Load obligations.

NERC explains that the proposed revised definition is intended to clarify that an energy emergency is not limited to a load-serving entity and, based on a review of the impact on the body of NERC Reliability Standards, ''does not change the reliability intent of other requirements of Definitions.'' [15]

B. NERC PRC Petition—Proposed Reliability Standard PRC–010–1 (Docket No. RM15–12–000)

11. On February 6, 2015, NERC submitted a petition seeking approval of proposed Reliability Standard PRC–010–1 (Undervoltage Load Shedding), approval of a revised definition of Undervoltage Load Shedding Program (UVLS Program) for inclusion in the NERC Glossary, the implementation plan for the proposed Reliability Standard and the associated violation risk factors and violation severity levels and retirement of four PRC Reliability Standards.[16]

12. In its petition, NERC states that proposed Reliability Standard PRC–010–1 is a single, comprehensive standard that addresses the same reliability principles outlined in the four currently-effective UVLS-related Reliability Standards.[17] NERC explains that the purpose of proposed Reliability Standard PRC–010–1 is to ''establish an integrated and coordinated approach to the design, evaluation, and reliable operation of Undervoltage Load Shedding Programs'' as directed by the Commission in Order No. 693.[18] Also, according to NERC, proposed Reliability Standard PRC–010–1 replaces the applicability to and involvement of ''Regional Reliability Organization'' in Reliability Standards PRC–020–1 and PRC–021–1 and consolidates the four currently-effective UVLS-Related Standards into one comprehensive standard. NERC states that proposed Reliability Standard PRC–010–1 ''reflects consideration of the 2003 Blackout Report recommendations,'' [19] particularly, Recommendation 21 for NERC to ''make more effective and wider use of system protection measures'' [20] and Recommendation 21C that ''NERC determine the goals and principles needed to establish an integrated approach to relay protection for generators and transmission lines, as well as of UFLS and UVLS programs.'' [21]

13. Proposed Reliability Standard PRC–010–1 incorporates a proposed definition of UVLS Program, which reads:

> Undervoltage Load Shedding Program (UVLS Program): An automatic load shedding program, consisting of distributed relays and controls, used to mitigate undervoltage conditions impacting the Bulk Electric System (BES), leading to voltage instability, voltage collapse, or Cascading. Centrally controlled undervoltage-based load shedding is not included.

NERC explains that ''to ensure that the applicability of the proposed Reliability Standard covers undervoltage-based load shedding systems whose performance has an impact on system reliability, a UVLS Program must mitigate risk of one or more of the following: Voltage instability, voltage collapse, or Cascading impacting the Bulk Electric System. By focusing on the enumerated risks, the definition is meant to exclude locally-applied relays that are not designed to mitigate wide-area voltage collapse.'' [22] NERC states that the proposed UVLS Program definition ''clearly identifies and separates centrally controlled undervoltage-based load shedding, which is now addressed by the proposed definition of Remedial Action Scheme.'' [23]

14. Proposed Reliability Standard PRC–010–1 applies to planning coordinators and transmission planners because ''either may be responsible for designing and coordinating the UVLS Program . . . [and] also applies to Distribution Providers and Transmission Owners responsible for the ownership, operation and control of UVLS equipment as required by the UVLS Program established by the Transmission Planner or Planning Coordinator.'' [24] NERC explains that the planning coordinator or transmission planner that establishes a UVLS Program is responsible for identifying the UVLS equipment and the necessary distribution provider and transmission owner (referred to as ''UVLS entities'' in the Applicability section) that performs the required actions.

15. NERC states that proposed Reliability Standard PRC–010–1 ''applies only after an entity has determined the need for a UVLS Program as a result of its own planning studies.'' [25] NERC explains that the eight requirements in proposed Reliability Standard PRC–010–1 meet four primary objectives: (1) The proposed standard requires applicable entities to evaluate a UVLS Program's effectiveness prior to implementation, including coordination with other protection systems and generator voltage ride-through capabilities; (2) applicable entities must comply with UVLS program specifications and implementation schedule; (3) applicable entities must perform periodic assessment and performance analysis; and (4) applicable entities must maintain and share UVLS Program data.

16. Proposed Requirement R1 requires each planning coordinator or transmission planner that is developing a UVLS Program to evaluate the viability and effectiveness of its program before implementation to confirm its effectiveness in resolving the undervoltage conditions for which it was designed, and that it is integrated through coordination with generator ride-through capabilities and other protection and control systems. Also, the planning coordinator or transmission planner must provide the UVLS Program specifications and implementation schedule to the applicable UVLS entities. Requirement R2 requires UVLS entities to meet the UVLS Program's specifications and implementation schedule provided by the planning coordinator or transmission planner or address any

[15] *Id.* at 18.

[16] Reliability Standard PRC–010–0 (Assessment of the Design and Effectiveness of UVLS Program); Reliability Standard PRC–020–1 (Under-Voltage Load Shedding Program Database); Reliability Standard PRC–021–1 (Under-Voltage Load Shedding Program Data); and Reliability Standard PRC–022–1 (Under-Voltage Load Shedding Program Performance).

[17] NERC PRC Petition at 14.

[18] *Id.* (citing Order No. 693, FERC Stats & Regs ¶ 31,242 at P 1509).

[19] NERC PRC Petition at 2 (citing the U.S.-Canada Power System Outage Task Force, *Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations,* April, 2004 (2003 Blackout Report)).

[20] NERC PRC Petition at 4 (citing 2003 Blackout Report at 3, 158).

[21] NERC PRC Petition at 6.

[22] *Id.* at 16.

[23] *Id.* at 15. NERC's petition for approval of the proposed definition of Remedial Action Scheme (Docket No. RM15–13–000) is discussed below.

[24] *Id.*

[25] *Id.* at 14.

necessary corrective actions in accordance with Requirement R5.

17. Requirement R3 requires each planning coordinator or transmission planner to perform periodic comprehensive assessments at least every 60 calendar months to ensure continued effectiveness of the UVLS program, including whether the program resolves identified undervoltage issues and that it is integrated and coordinated with generator voltage ride-through capabilities and other specified protection and control systems. Requirement R4 requires each planning coordinator or transmission planner to commence a timely assessment of a voltage excursion subject to the UVLS Program, within twelve calendar months of the event, to evaluate whether the UVLS Program resolved the undervoltage issues associated with the event. Requirement R5 requires a planning coordinator or transmission planner to develop a corrective action plan for any program deficiencies identified during an assessment performed under either Requirement R3 or R4, and provide an implementation schedule to UVLS entities within three calendar months of its completion.

18. Pursuant to Requirement R6, a planning coordinator must update the data necessary to model its UVLS Program for use in event analyses and program assessments at least each calendar year. Requirement R7 requires each UVLS entity to provide data to its planning coordinator, according to the planning coordinator's format and schedule, to support maintenance of the UVLS Program database. Requirement R8 requires a planning coordinator to provide its UVLS Program database to other planning coordinators and transmission planners within its Interconnection, and other functional entities with a reliability need, within thirty calendar days of a written request.

19. NERC proposes that PRC–010–1 and the revised definition of UVLS Program shall become effective on the first day of the first calendar quarter that is twelve (12) months after the date that the standard and definition are approved by the Commission. NERC also proposes to retire PRC–010–0, PRC–020–1, PRC–021–1, and PRC–022–1 at midnight of the day immediately prior to the effective date of PRC–010–1.[26] Further, NERC explains that proposed Reliability Standard PRC–010–1 addresses reliability obligations that are set forth in Requirements R2, R4 and R7 of currently-effective Reliability Standard EOP–003–2.[27] Since NERC has proposed to retire EOP–003–2 in the petition seeking approval of proposed Reliability Standard EOP–011–1 (Docket No. RM15–7–00, discussed above), concurrent Commission action on the two petitions will prevent a possible reliability gap.

C. NERC RAS Petition—Revisions to the Definition of ''Remedial Action Scheme'' (Docket No. RM15–13–000)

20. On February 3, 2015, NERC submitted a petition seeking approval of a proposed revised definition of Remedial Action Scheme in the NERC Glossary. In addition, NERC seeks approval of modified Reliability Standards that incorporate the new definition of Remedial Action Scheme and eliminate use of the term Special Protection System.[28] NERC states that the defined terms Special Protection System and Remedial Action Scheme are currently used interchangeably throughout the NERC Regions and in various Reliability Standards. NERC explains that ''[a]lthough these defined terms share a common definition in the NERC Glossary of Terms today, their use and application have been inconsistent as a result of a lack of granularity in the definition and varied regional uses of the terms. The proposed revisions add clarity and granularity that will allow for proper identification of Remedial Action Schemes and a more consistent application of related Reliability Standards.'' [29]

21. NERC states that the revised definition of Remedial Action Scheme consists of a ''core'' definition, including a list of objectives and a separate list of exclusions for certain schemes or systems not intended to be covered by the revised definition.[30] NERC explains that it is proposing a broad definition because of ''all the possible scenarios an entity may develop'' for its Remedial Action Scheme and a ''very specific, narrow definition may unintentionally exclude schemes that should be covered.'' [31] Accordingly, NERC proposes the following revised ''core'' definition of Remedial Action Scheme:

> A scheme designed to detect predetermined system conditions and automatically take corrective actions that may include, but are not limited to, adjusting or tripping generation (MW and Mvar), tripping load, or reconfiguring a System(s). (sic) RAS accomplish objectives such as:
> • Meet requirements identified in the NERC Reliability Standards;
> • Maintain Bulk Electric System (BES) stability;
> • Maintain acceptable BES voltages;
> • Maintain acceptable BES power flows;
> • Limit the impact of Cascading or extreme events.

The definition then lists fourteen exclusions, describing specific schemes and systems that do not constitute a Remedial Action Scheme, because each is either a protection function, a control function, a combination of both, or used for system reconfiguration.[32]

22. In the implementation plan, NERC proposes an effective date for the revised Reliability Standards and the revised definition of ''Remedial Action Scheme'' on the first day of the first calendar quarter that is twelve months after Commission approval.[33] NERC also proposes that for entities with existing schemes that become newly classified as ''Remedial Action Schemes'' resulting from the application of the revised definition, the entities will have additional time of up to twenty-four months from the effective date to be fully compliant with all applicable Reliability Standards.[34] Further, NERC asks the Commission to take final action concurrently with the NERC petition on proposed Reliability Standard PRC–010–1 (Docket No. RM15–12–000) because ''[t]he proposed definitions of UVLS Program and Remedial Action Scheme in each project have been coordinated to cover centrally controlled UVLS as a Remedial Action Scheme. Final action by the Commission is needed contemporaneously on both petitions to facilitate implementation and avoid a gap in coverage of centrally controlled UVLS.'' [35]

III. Discussion

23. Pursuant to section 215(d) of the FPA, the Commission proposes to approve as just, reasonable, not unduly

[26] *Id.* Ex. B (Implementation Plan).

[27] *See* NERC EOP Petition at 23.

[28] NERC RAS Petition at 1–2. NERC proposes to modify the following Reliability Standards to incorporate the proposed definition of Remedial Action Scheme and eliminate use of the term Special Protection System: EOP–004–3, PRC–005–3(ii), PRC–023–4, FAC–010–3, TPL–001–0.1(i), FAC–011–3, TPL–002–0(i)b, MOD–030–3, TPL–003–0(i)b, MOD–029–2a, PRC–015–1, TPL–004–0(i)a, PRC–004–WECC–2, PRC–016–1, PRC–001–1.1(i), PRC–005–2(ii), and PRC–017–1. NERC does not propose any changes to the violation risk factors or violation severity levels for the modified standards.

[29] *Id.* at 4–5.

[30] *Id.* at 16. NERC notes that ''for each exclusion, the scheme or system could still classify as a Remedial Action Scheme if employed in a broader scheme that meets the definition of Remedial Action Scheme.''

[31] *Id.* at 17.

[32] *Id.* at 18.

[33] *Id.* at 15–16.

[34] NERC RAS Petition, EX. C (Implementation Plan) at 4.

[35] NERC RAS Petition at 25.

discriminatory or preferential, and in the public interest the proposed Reliability Standards and NERC Glossary definitions set forth in NERC's three petitions pertaining to EOP–011–1, PRC–010–1 and a revised definition of Remedial Action Scheme. As discussed below, the Commission believes that the modified Reliability Standards provide greater clarity, and the consolidated EOP and PRC standards will provide additional efficiencies for responsible entities.

A. Proposed Reliability Standard EOP–011–1

24. Pursuant to section 215(d) of the FPA, we propose to approve proposed Reliability Standard EOP–011–1 and the proposed new Energy Emergency definition, as well as the proposed violation risk factors and violation severity levels and implementation plan. We agree with NERC that proposed EOP–011–1 consolidates and reorganizes previously approved standards, and proposes modifications based on current operating practices and experience. We believe that the Reliability Standard enhances reliability by requiring that actions necessary to mitigate capacity and energy emergencies are focused in single operating plans, and ensures communication and coordination among relevant entities during emergency operations. Also, we are satisfied that the NERC petition adequately addresses the relevant Order No. 693 directives.[36]

B. Proposed Reliability Standard PRC–010–1

25. Pursuant to section 215 of the FPA, we propose to approve proposed Reliability Standard PRC–010–1 as just, reasonable, not unduly discriminatory or preferential and in the public interest. We also propose to approve the proposed, revised definition of UVLS Program for inclusion in the NERC Glossary, the implementation plan and the associated violation risk factors and violation severity levels. Likewise, we propose to approve the retirement of PRC–010–0, PRC–020–1 and PRC–021–1.[37] However, for the reasons explained below, we are concerned whether it is appropriate to retire PRC–022–1, as NERC requests, before an acceptable replacement Reliability Standard is in place to address the potential misoperation of UVLS equipment.

26. The Commission agrees with NERC that proposed Reliability Standard PRC–010–1 will improve system reliability by establishing an integrated and coordinated approach to the design, evaluation and reliable operation of UVLS Programs, and therefore satisfies the Commission's directive issued in Order No. 693.[38] We also propose to approve the proposed UVLS Program definition and agree that it ''clearly identifies and separates centrally controlled undervoltage-based load shedding, which is now addressed by the proposed definition of Remedial Action Scheme.'' [39]

27. In the ''Guidelines for UVLS Program Definition,'' NERC provides an example of a ''BES subsystem,'' in the diagram below, illustrating a UVLS system that would not be included in the definition of UVLS Program if the consequences of the contingency do not impact the BES.[40] The Commission seeks clarification whether this example illustrates a centrally controlled UVLS and would therefore be considered a Remedial Action Scheme.[41] The Commission also seeks clarification regarding the use of the term ''BES subsystem,'' since the term is not defined in the NERC Glossary. Depending on the response from NERC and others, a directive for further modification may be appropriate to ensure that the UVLS standards and related NERC guidance are consistent with the Commission-approved definition of ''bulk electric system.'' [42]

[36] Currently effective EOP–002–3.1 applies, *inter alia,* to load-serving entities. Proposed EOP–011–1, which would replace EOP–002–3.1, would apply to balancing authorities, reliability coordinators and transmission operators, but not load-serving entities. The removal of load-serving entities raises questions on who would perform the roles traditionally performed by load-serving entities. For instance, NERC's Functional Model indicates that a load-serving entity has real-time responsibility to receive requests from a balancing authority to voluntarily curtail load and communicate such requests for voluntary load curtailment to end-use customers as directed by the balancing authority. In addition, NERC's Functional Model indicates that a balancing authority has a real-time function to coordinate the use of controllable loads with load-serving entities. The Commission notes that NERC is required to make a compliance filing in July 2015 in Docket No. RR15–4–000. The Commission's decision on that filing will guide our action on this question in this proceeding.

[37] As noted above, the Commission in Order No. 693 did not approve or remand proposed Reliability Standard PRC–020–1 but, rather, took no action on the Reliability Standard pending the receipt of additional information. Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1555. Approval of Reliability Standard PRC–010–1, as proposed herein, will render PRC–020–1 ''retired,'' *i.e.,* withdrawn, and no longer pending before the Commission.

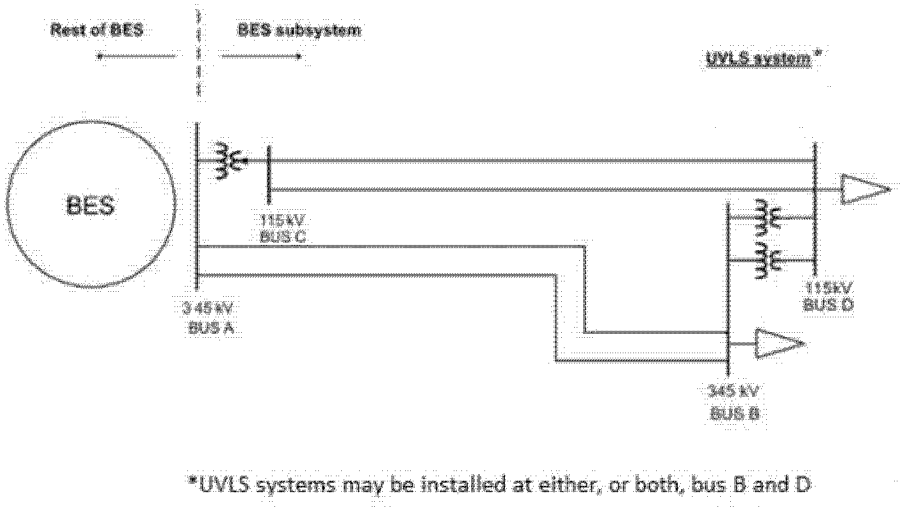
[38] Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1509.

[39] NERC PRC Petition at 15. NERC's proposed revised definition of Remedial Action Scheme (Docket No. RM15–13–000) is addressed elsewhere in this NOPR.

[40] NERC PRC Petition, Ex. A (Proposed Reliability Standard PRC–010–1) at 12.

[41] *Id.* at 3.

[42] *Revisions to Electric Reliability Organization Definition of Bulk Electric System and Rules of Procedure,* Order No. 773, 141 FERC ¶ 61,236 (2012); *order on reh'g,* Order No. 773–A, 143 FERC ¶ 61,053 (2013), *order on reh'g and clarification,* 144 FERC ¶ 61,174 (2013), *aff'd sub nom., New York* v. *FERC,* 783 F.3d 946 (2d. Cir. 2015).



28. NERC proposes to retire Reliability Standard PRC–022–1, which requires transmission operators, load-serving entities and distribution providers to analyze and document all UVLS operations and misoperations. Requirement R1.5 of this Reliability Standard requires that an applicable entity's analysis and documentation should include ''[f]or any Misoperation, a Corrective Action Plan to avoid future Misoperations of a similar nature.'' Proposed Reliability Standard PRC–010–1, Requirement R5 addresses deficiencies in UVLS Programs that a planning coordinator or transmission planner identifies during assessments performed in accordance with either Requirement R3 (periodic UVLS Program effectiveness evaluations) or Requirement R4 (evaluations to assess UVLS Program responses to voltage excursions), and requires the entities to develop a Corrective Action Plan to address the deficiencies.

29. NERC correctly states that ''[w]hen a UVLS Program does not function as expected and designed during a voltage excursion event, this presents a risk to system reliability.'' [43] However, we are not persuaded that proposed Reliability Standard PRC–010–1, Requirement R4 is an adequate replacement for currently-effective PRC–022–1, which contains requirements specifically addressing misoperations. Accordingly, we propose to deny NERC's proposal to retire currently-effective Reliability Standard PRC–022–1 concurrent with the effective date of proposed PRC–010–1. Rather, we propose that Reliability Standard PRC–022–1 remain in effect until an acceptable replacement standard is approved and implemented.[44]

C. Revised Definition of Remedial Action Scheme

30. Pursuant to section 215(d) of the FPA, the Commission proposes to approve the proposed definition of Remedial Action Scheme, the proposed exclusions, the proposed Reliability Standards and proposed implementation plan, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We are persuaded that the use of a broad, core definition with a wide scope, accompanied by a list of specific exclusions will help avoid confusion and achieve a uniform understanding across all the Regional Entities of the proper classification of what schemes and systems constitute a Remedial Action Scheme. We agree with NERC that the proposed definition will improve reliability by eliminating ambiguity and promoting the proper, consistent identification of Remedial Action Schemes and more consistency in the application of related Reliability Standards.[45]

IV. Information Collection Statement

31. The collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) regulations under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[46] OMB's regulations require approval of certain informational collection requirements imposed by agency rules.[47] 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.

32. We solicit comments on the need for this information, 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. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

A. Proposed Reliability Standard EOP–011–1

33. *Public Reporting Burden:* As of May 2015, there are 99 balancing authorities, 15 reliability coordinators and 171 transmission operators registered with NERC. These registered entities will have to comply with 6–8 new requirements in the proposed Reliability Standard EOP–011–1. As proposed, each registered balancing authority will have to comply with Requirements R2, R4, and, under certain circumstances, R5. Each reliability

[43] *Id.* at 20.

[44] In the PRC Petition, NERC indicates that UVLS misoperations are currently being addressed in Project 2008–02.2 Phase 2 Undervoltage Load Shedding (UVLS): Misoperations. NERC states that ''[t]his phase of the UVLS project will address Misoperation of UVLS equipment to complete the work anticipated by the two standard drafting teams.'' *Id.* at 23. The Commission notes that, on June 9, 2015, NERC filed proposed Reliability Standards PRC–010–2 and PRC–004–5, which include requirements and applicability criteria pertaining to UVLS misoperations.

[45] NERC RAS Petition at 14–16.

[46] 44 U.S.C. 3507(d).

[47] 5 CFR 1320.11.

coordinator will have to comply with Requirements R1 and its subparts, R2 and its subparts, R3 and its subparts, R5 and R6. Each transmission operator will have to comply with Requirements R1 and its subparts and R4.

34. Proposed Reliability Standard EOP–011–1 replaces a combined total of 40 requirements or subparts that are found in Reliability Standards EOP–001–2.1b, EOP–002–3.1 and EOP–003–2. These three Reliability Standards are proposed to be retired, concurrent with the effective date of proposed Reliability Standard EOP–011–1. Accordingly, the requirements in proposed Reliability Standard EOP–011–1 do not create any new burdens for applicable balancing authorities or transmission operators because the requirements in Reliability Standard EOP–011–1 are already burdens or tasks imposed on this set of registered entities by Reliability Standards EOP–001–2.1b, EOP–002–3.1 and EOP–003–2 under FERC–725A (1902–0244).

35. Proposed Reliability Standard EOP–011–1 requires reliability coordinators to perform the additional tasks of reviewing, correcting, and coordinating their balancing authorities' and transmission operators' operating procedures for emergency conditions. The Commission estimates that these tasks will add approximately 1,500 man-hours per year for each reliability coordinator as described in detail in the following table:

RM15–7–000 (MANDATORY RELIABILITY STANDARDS: RELIABILITY STANDARD EOP–011–1)

	Number of applicable registered entities	Annual number of responses per respondent	Total number of responses	Average burden (hours) & cost per response	Total annual burden hours & total annual cost	Cost per respondent
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
RC tasks necessary for EOP–011–1 compliance	11	1	11	1,500 [48] 92,387	16,500 $1,016,257	$92,387

B. Proposed Reliability Standard PRC–010–1

36. *Public Reporting Burden:* As of May 2015, there are 450 registered distribution providers and 175 transmission planners that are not overlapping in their registration with the distribution provider registration. We estimate that five percent of all distribution providers (23) and transmission planners (9) have under voltage load shedding programs that fall under the proposed Reliability Standard. The proposed Reliability Standard is applicable to planning coordinators and transmission planners, distribution providers and transmission owners. However, only distribution providers and transmission owners would be responsible for the incremental compliance burden under proposed Reliability Standard PRC–010–1, Requirement R2, as described in detail in the following table:

RM15–12–000 (MANDATORY RELIABILITY STANDARDS: RELIABILITY STANDARD PRC–010–1) [49]

	Number of applicable registered entities	Annual number of responses per respondent	Total number of responses	Average burden (hours) & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
DP—Requirement 2	23	1	23	[50] 36 $1,906.32	828 $43,845.36	$1,906
TP—Requirement 2	3	1	3	[51] 36 $1,906.32	324 $17,156.07	1,906
DP—Requirement 2 Data Retention	23	1	23	12 [52] $367.92	276 $8,462.16	368
TP—Requirement 2 Data Retention	3	1	3	12 $367.92	108 $3,311.28	368
Total					$72,774.87	

C. RemedialAction Scheme Revisions

37. *Public Reporting Burden:* The Commission approved the definition of Special Protection System (Remedial Action Scheme) in Order No. 693. We propose to approve a revision to the previously approved definition. The proposed revisions to the Remedial Action Scheme definition and proposed Reliability Standards are not expected to result in changes to the scope of systems covered by the proposed Reliability

[48] The 1,500 hour figure is broken into 1,300 hours at the engineer wage rate and 200 hours at the clerk wage rate. These estimates assume that the engineer's wage rate will be $66.35 and the clerk's wage rate will be $30.66. These figures are taken from the Bureau of Labor Statistics at *http://www.bls.gov/oes/current/naics2_22.htm;* Occupation Code: 17–2071 (engineer) and 43–4071 (clerk).

[49] DP = distribution provider and TP = transmission planner.

[50] The 36 hour figure is broken into 24 hours at the engineer wage rate and 12 hours at the clerk wage rate. These estimates assume that the engineer's wage rate will be $66.35 and the clerk's wage rate will be $30.66. These figures are taken from the Bureau of Labor Statistics at *http://www.bls.gov/oes/current/naics2_22.htm;* Occupation Code: 17–2071 (engineer) and 43–4071 (clerk).

[51] *Id.*

[52] Clerk's wage rate is used for managing data retention.

Standards and other Reliability Standards that include the term Remedial Action Scheme. Therefore, the Commission does not expect the proposed revisions to affect applicable entities' current reporting burden.

FERC–725G4, Mandatory Reliability Standards: Reliability Standard PRC–010–1 (Undervoltage Load Shedding).

FERC–725S, Mandatory Reliability Standards: Reliability Standard EOP–011–1 (Emergency Operations).

Action: Proposed Collection of Information.

OMB Control No: OMB Control No. 1902–0270 (FERC–725S); OMB Control No. 1902–TBD (FERC–725G4).

Respondents: Business or other for-profit and not-for-profit institutions.

Frequency of Responses: One time and on-going.

Necessity of the Information: The proposed approval of the proposed Reliability Standards 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 proposed Reliability Standards consolidate, streamline and clarify the existing requirements of certain currently-effective Emergency Preparedness and Operations and Protection and Control Reliability Standards.

38. *Internal review:* The Commission has reviewed the requirements pertaining to proposed Reliability Standards PRC–010–1 and EOP–011–1 and made a determination that the proposed requirements of these Reliability Standards are necessary to implement section 215 of the FPA. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

39. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office 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].

40. Comments concerning the information collections proposed in this NOPR and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference the docket numbers of this Notice of Proposed Rulemaking (Docket Nos. RM15–13–000, RM15–12–000, and RM15–7–000) in your submission.

V. Regulatory Flexibility Act Analysis

41. The Regulatory Flexibility Act of 1980 (RFA) [53] generally requires a description and analysis of Proposed Rules that will have significant economic impact on a substantial number of small entities. The immediate rulemaking proposes action on three separate, but related, NERC petitions. As discussed above, the consolidated EOP standard and consolidated PRC standards are intended to provide additional efficiencies for responsible entities. Thus, the Commission estimates that the rulemaking will impose only a minimal additional burden on responsible entities, as described below. Proposed Reliability Standard EOP–011–1 is expected to impose an additional burden on 11 entities (reliability coordinators). The remaining 270 entities (balancing authorities and transmission operators and a combination thereof) will maintain the existing levels of burden. Comparison of the applicable entities with FERC's small business data indicates that approximately 7 of the 11 entities are small entities affected by this proposed Reliability Standard.[54]

42. On average, each small entity affected may have a one-time cost of $92,387, representing a one-time review of the program for each entity, consisting of 1,500 man-hours at $66.35/hour (for engineers) and $30.66/hour (for record clerks), as explained above in the information collection statement. Proposed Reliability Standard PRC–010–1 is expected to impose an additional burden on 26 entities (distribution providers and transmission planners or a combination thereof). Comparison of the applicable entities with FERC's small business data indicates that approximately 8 are small entities affected by this proposed Reliability Standard.

43. On average, each small entity affected may have a cost of $1,906, representing a one-time review of the program for each entity, consisting of 96 man-hours at $66.35/hour (for engineers) and $30.66/hour (for record clerks), as explained above in the information collection statement. The Commission estimates that the modified definition of the term Remedial Action Scheme and related modifications to Reliability Standards will have no cost impact on applicable entities, including any small entities.

44. The Commission estimates that the combined impact of proposed Reliability Standards EOP–011–1 and PRC–010–1 in this NOPR would impose an additional burden on a total of 47 entities. Further, the Commission estimates that 15 respondents are small entities affected by these proposed Reliability Standards. On average, each small entity affected may have a cost of $92,387 and $1,906 (EOP–011–1 and PRC–010–1 respectively), representing a one-time review of the program for each entity. The Commission does not consider these costs to be a significant economic impact on small entities. Accordingly, the Commission certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this certification.

VI. Environmental Analysis

45. 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.[55] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[56] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VII. Comment Procedures

46. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals

[53] 5 U.S.C. 601–12.

[54] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this NOPR, we use a 500 employee threshold for each affected entity. Each entity is classified as Electric Bulk Power Transmission and Control (NAICS code 221121).

[55] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[56] 18 CFR 380.4(a)(2)(ii).

that commenters may wish to discuss. Comments are due August 24, 2015. Comments must refer to Docket Nos. RM15–13–000, RM15–12–000, and RM15–7–000, and must include the commenter's name, the organization they represent, if applicable, and address.

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.

VIII. 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.*

By direction of the Commission.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15432 Filed 6–23–15; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–138526–14]

RIN 1545–BM46

Issue Price Definition for Tax-Exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking, notice of proposed rulemaking, and notice of public hearing.

SUMMARY: This document partially withdraws the portion of the notice of proposed rulemaking published in the **Federal Register** on September 16, 2013 (78 FR 56842), relating to the definition of issue price for purposes of the arbitrage restrictions under section 148 of the Internal Revenue Code (Code). This document also contains a notice of proposed rulemaking that provides a revised definition of issue price for purposes of the arbitrage restrictions. In addition, this document provides notice of a public hearing on the proposed regulations in this document. The proposed regulations in this document affect issuers of tax-exempt and other tax-advantaged bonds.

DATES: Written or electronic comments must be received by September 22, 2015. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for October 28, 2015, at 10:00 a.m., must be received by September 22, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–138526–14), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–138526–14), 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–138526–14). The public hearing will be held at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Lewis Bell at (202) 317–6980; concerning submissions of comments and the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in § 1.148–1 has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1347. The collection of information in this proposed regulation is in § 1.148–1(f)(2)(ii) which contains a requirement that the issuer obtain certifications and supporting documentation regarding the underwriter's sales of the issuer's bonds. The collection of information in § 1.148–1(f)(2)(ii) is an increase in the total annual burden under control number 1545–1347. The respondents are issuers of tax-exempt bonds that wish to use the alternative method in § 1.148–1(f)(2)(ii).

Estimated total annual recordkeeping burden: 52,276 hours.

Estimated average annual burden hours per respondent: 4 hours.

Estimated number of respondents: 12,546.

Estimated annual frequency of responses: 20,910.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:CAR:MP:T:T:SP, Washington DC 20224. Comments on the collection of information should be received by August 24, 2015.

Comments are sought on whether the proposed collection of information is necessary for the proper performance of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques and other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance,

and purchase of service to provide information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) on the arbitrage investment restrictions under section 148 of the Code. On June 18, 1993, the Department of the Treasury (Treasury Department) and the IRS published comprehensive final regulations in the **Federal Register** (TD 8476, 58 FR 33510) on the arbitrage investment restrictions and related provisions for tax-exempt bonds under sections 103, 148, 149, and 150. Since that time, those final regulations have been amended in certain limited respects (the regulations issued in 1993 and the amendments thereto are collectively referred to as the Existing Regulations).

A notice of proposed rulemaking was published in the **Federal Register** (78 FR 56842; REG–148659–07) on September 16, 2013 (the 2013 Proposed Regulations), which proposes amendments to the Existing Regulations to address market developments, simplify certain provisions, address certain technical issues, and make the regulations more administrable. One significant change in the 2013 Proposed Regulations addresses the definition of issue price. Comments were received, and a public hearing was held on February 5, 2014. After considering the comments and the statements made at the public hearing, the Treasury Department and the IRS have decided to withdraw § 1.148–1(f) of the 2013 Proposed Regulations relating to issue price and to propose new regulations. This document (the Proposed Regulations) contains the re-proposed definition of issue price. The Treasury Department and the IRS will address the remaining provisions contained in the 2013 Proposed Regulations at a later time.

Explanation of Provisions

For purposes of the arbitrage investment restrictions, section 148(h) provides that yield on an issue is to be determined on the basis of the issue price (within the meaning of sections 1273 and 1274). The reason for using issue price (rather than sales proceeds less the costs of issuance) to determine yield for purposes of section 148(h) is to ensure that issuers bear the costs of issuance, rather than recover these costs through arbitrage profits. See H. Rep. No. 99–426, at 517 (1985). Congress thought that this requirement would encourage issuers to scrutinize costs of issuance more closely and would encourage better targeting of the federal subsidy associated with tax-exempt bonds. Id., at 517–518. The issue price definition under the Existing Regulations generally follows the issue price definition used for computing original issue discount on debt instruments under sections 1273 and 1274, with certain modifications. The definition under the Existing Regulations provides that generally the issue price of bonds that are publicly offered is the first price at which a substantial amount of the bonds is sold to the public. However, the issue price definition in the Existing Regulations defines substantial amount as ten percent and applies a reasonable expectations standard (rather than a standard based on actual sales) for determining the issue price of bonds that are publicly offered. Specifically, the issue price of bonds for which a bona fide public offering is made is determined as of the sale date based on reasonable expectations regarding the initial offering price. The issue prices of bonds with different payment and credit terms are determined separately. Notice 2010–35, published May 10, 2010 (2010–19 IRB 660), provides that the arbitrage definition of issue price also applies to other tax-advantaged bond programs, including Build America Bonds under section 54AA and other Qualified Tax Credit Bonds under section 54A.

The definition of issue price in the 2013 Proposed Regulations differs significantly from that in the Existing Regulations. Consistent with section 148(h), the 2013 Proposed Regulations retain the rule that issue price generally will be determined under the rules of sections 1273 and 1274. The 2013 Proposed Regulations parallel the language in the existing section 1273 regulations by providing that the issue price of tax-exempt bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public. The 2013 Proposed Regulations provide a safe harbor under which an issuer may treat the first price at which a minimum of 25 percent of the bonds in an issue (with the same credit and payment terms) actually is sold to the public as the issue price, provided that all orders at this price received from the public during the offering period are filled (to the extent that the public orders at such price do not exceed the amount of bonds sold). Thus, the 2013 Proposed Regulations base the determination of issue price on actual sales prices instead of reasonably expected sales at initial public offering prices. The 2013 Proposed Regulations also remove the definition of a ''substantial amount'' as ten percent.

The 2013 Proposed Regulations define the term ''public'' to mean any person other than an ''underwriter.'' The 2013 Proposed Regulations define the term ''underwriter'' to mean any person that purchases bonds from the issuer for the purpose of effecting the original distribution of the bonds or otherwise participates directly or indirectly in the original distribution. An underwriter includes a lead underwriter and any member of a syndicate that contractually agrees to participate in the underwriting of the bonds for the issuer. A securities dealer (whether or not a member of the issuer's underwriting syndicate) that purchases bonds (whether or not from the issuer) for the purpose of effecting the original distribution of the bonds is also treated as an underwriter for this purpose. An underwriter generally includes a party related to an underwriter. A person that holds bonds for investment is not an underwriter with respect to those bonds.

A number of comments were received on the 2013 Proposed Regulations issue price definition. In general, the commenters requested the withdrawal of the portion of the 2013 Proposed Regulations relating to the definition or the re-proposal of the definition using the existing reasonable expectations test regarding the initial public offering price, with certain clarifications. Commenters pointed out that issue price must be determined as of the sale date to provide certainty that the bonds will qualify as tax-exempt and meet state or local requirements for debt issuance. The sale date is the date when the syndicate or sole underwriter in contractual privity with the issuer signs the agreement to buy the bonds from the issuer and when the terms of the bond issue are set. Commenters expressed concern about insufficient sales of bonds preventing a timely determination of issue price on the sale date. The commenters noted that the syndicate or sole underwriter in contractual privity purchases the bonds from the issuer, so the syndicate or sole

underwriter, rather than the issuer, will bear the risk of any market fluctuations after the sale date. Because the issuer neither bears this risk nor receives any further proceeds, any later change in price is not a factor that affects the costs of issuance paid by the issuer. In addition, later sales prices could reflect changes in the market, whereas the purpose of using issue price is to preclude recovery of issuance costs through arbitrage profits. See H. Rep. No. 99–426, at 517.

In general, the lower the issue price for the bonds bearing a stated interest rate, the higher the yield. Economically, the issuer should want to receive the highest price for the bonds and pay the lowest yield. This aligns with the purpose of the arbitrage provisions to minimize arbitrage investment benefits and remove incentives to issue more tax-exempt bonds, and thus to limit the federal revenue cost of the tax subsidy for tax-exempt bonds. Many of the commenters stated, however, that the use of actual sales prices likely would result in lower bond offering prices so as to ensure that each issue would meet the 25 percent threshold in the safe harbor in the 2013 Proposed Regulations as of the sale date of the bonds. The commenters pointed to unsold bonds in particular maturities of an overall tax-exempt bond issue that includes a series of bonds with separate maturities and issue prices as the particular impediment to meeting an actual sale requirement as of the sale date. These lower bond prices would reduce proceeds and increase borrowing costs for issuers, increase bond yields for arbitrage purposes, and increase federal tax subsidies.

In addition, commenters suggested that the definition of underwriter in the 2013 Proposed Regulations was unduly broad and ambiguous. In particular, commenters expressed concern that the 2013 Proposed Regulations effectively required the issuer to obtain price information from dealers that are not in a contractual relationship with the issuer or underwriting syndicate. The commenters also expressed concern that the proposed definition of underwriter necessitated determining a dealer's intent for buying bonds because whether a dealer was an underwriter depended upon whether the dealer purchased bonds with ''the purpose of effecting the original distribution of the bonds.''

In response to the comments received, the Treasury Department and the IRS are re-proposing an amended definition of issue price for tax-exempt bonds. Consistent with section 148(h), the Proposed Regulations retain the rule that issue price generally will be determined under the rules of sections 1273 and 1274. The Proposed Regulations also parallel the language in the existing section 1273 regulations and the Existing Regulations by providing that the issue price of bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public. This rule uses actual sales to determine issue price and is consistent with section 1273. The Proposed Regulations retain the rule in the Existing Regulations that ten percent is a substantial amount.

The Proposed Regulations also retain the rule for tax-exempt bonds that the issue prices of bonds with different payment and credit terms are determined separately. Tax-exempt bond issues often include bonds with different payment and credit terms that generally sell at different prices. In response to commenters' concerns regarding the need for certainty with respect to the determination of issue price of the issue as of the sale date and that less than a substantial amount of particular bonds included within an issue may be sold by that time, the Proposed Regulations provide an alternative method of determining issue price for bonds a substantial amount of which is not sold pursuant to orders received from the public as of the sale date. Under this alternative method, an issuer may treat the initial offering price to the public as the issue price, provided certain requirements are met.

In particular, the alternative method requires that the underwriters fill all orders at the initial offering price placed by the public and received by the underwriters on or before the sale date (to the extent the orders do not exceed the amount of bonds to be sold) and do not fill any order received by the underwriters on or before the sale date at a price higher than the initial offering price. Further, the alternative method requires the lead underwriter (or sole underwriter, if applicable) to provide certification with respect to certain matters under the alternative method, including a certification that no underwriter will fill an order received from the public after the sale date and before the issue date at a price higher than the initial offering price, except if the higher price is the result of a market change for those bonds after the sale date (for example, due to a change in interest rates), and that it will provide the issuer with supporting documentation for the matters covered by the certifications.

Documentation of the initial offering price may include a copy of the pricing wire (or equivalent communication). Documentation of bonds for which an underwriter filled an order placed by the public after the sale date and before the issue date at a price higher than the initial offering price includes both pricing information (amounts, prices, and sale dates) and information regarding the corresponding market change, such as proof of the values of a broad-based index of municipal bond interest rates on bonds similar to the type and credit rating of the bonds being sold. The issuer must not know or have reason to know, after exercising due diligence, that the certifications are false.

The Treasury Department and the IRS recognize that, under syndicate agreements among underwriters and MSRB rules, underwriters are free to sell bonds after the bond purchase agreement is signed at a fair and reasonable price different from the initial offering price. The alternative method allows the use of initial offering price as the issue price in circumstances in which bonds are sold after the sale date and before the issue date at a higher price, provided that the higher price results from a market change for those bonds after the sale date. Based on available data, the Treasury Department and the IRS believe that the frequency of sales by underwriters at higher prices between the sale date and the issue date is limited. Thus, the burden, in effect, of requiring underwriters to maintain initial public offering prices for unsold bonds until the issue date absent justification for higher prices based on market changes should be limited. The Treasury Department and the IRS request comments on other safeguards or alternative approaches to ensure that the prices obtained by underwriters in actual sales of bonds to the public between the sale date and the issue date are consistent with use of initial offering prices to the public as of the sale date as a simplifying assumption for issue price determinations in the alternative method.

The Proposed Regulations define ''public'' for purposes of determining the issue price of tax-exempt bonds as any person other than an underwriter or a related party to an underwriter. The Proposed Regulations define ''underwriter'' to include (i) any person that contractually agrees to participate in the initial sale of the bonds to the public by entering into a contract with the issuer or into a contract with a lead underwriter to form an underwriting syndicate and (ii) any person that, on or before the sale date, directly or indirectly enters into a contract or other arrangement to sell the bonds with any of the foregoing (for example, a retail

distribution contract between a member of an underwriting syndicate or selling group and another dealer that is not in the syndicate or selling group).

The Proposed Regulations remove as unnecessary a rule in the Existing Regulations expressly stating that the issue price does not change if part of the issue is later sold at a different price. The Treasury Department and the IRS intend no substantive change by the removal.

In accordance with section 6001, the issuer should maintain documentation in its books and records to support its issue price determinations. This documentation includes the specific certifications and documentation required to determine issue price under the alternative method, as well as documentation to support issue price determinations under the general rule. For example, under the general rule, an issuer should include in its books and records any certification from the lead (or sole) underwriter regarding the first price at which a substantial amount of the bonds were sold to the public and reasonable supporting documentation for this price.

Proposed Effective/Applicability Date

The Proposed Regulations are proposed to apply prospectively to bonds that are sold on or after the date that is 90 days after publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. In addition, issuers may rely upon the Proposed Regulations with respect to bonds that are sold on or after June 24, 2015, and before the date that is 90 days after publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply.

It is hereby certified that these Proposed Regulations, if adopted, would not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. This certification is based generally on the fact that any effect on small entities by these rules generally flows from section 148 of the Code.

Section 148(h) of the Code requires the yield on an issue of bonds to be determined on the basis of issue price (within the meaning of sections 1273 and 1274). Under section 1273, the issue price is the first price at which a substantial amount of the bonds were sold to the public. Section 1.148–1(f)(2)(ii) of the Proposed Regulations gives effect to the statute by requiring the issuer to obtain certifications and documentation regarding sales of the bonds from the underwriter of the bonds, which is the party that sells the bonds to the public. This information will be used to support the issue price of the bonds for audit and other purposes. Any economic impact of obtaining this information is minimal because most of the information already is provided to issuers by the underwriters under existing industry practices. Accordingly, these proposed changes do not add to the impact on small entities imposed by the statutory provision. Pursuant to section 7805(f) of the 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 business.

Comments and Public Hearing

Before these Proposed Regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the ''Addresses'' heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments that are submitted by the public will be available for public inspection and copying at *www.regulations.gov* or upon request.

A public hearing has been scheduled for October 28, 2015, at 10:00 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by September 22, 2015. Such persons should submit a signed paper original and eight (8) copies or an electronic copy. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Johanna Som de Cerff and Lewis Bell, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. 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.

Partial Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, § 1.148–1(f) of the notice of proposed rulemaking (REG–148659–07) that was published in the **Federal Register** on September 16, 2013 (78 FR 56842), is withdrawn.

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 1.148–0(c) is amended by adding entries for §§ 1.148–1(f) and 1.148–11(m) to read as follows:

§ 1.148–0 Scope and table of contents.

* * * * *

(c) *Table of contents.* * * *

§ 1.148–1 Definitions and elections.

* * * * *

(f) Definition of issue price.

(1) In general.

(2) Bonds issued for money.

(3) Definitions.

(4) Special rules.

* * * * *

§ 1.148–11 Effective/applicability dates.

* * * * *

(m) Definition of issue price.

■ **Par. 3.** Section 1.148–1 is amended by revising the definition of *issue price* in paragraph (b) and adding paragraph (f) to read as follows:

§ 1.148–1 Definitions and elections.

* * * * *

(b) * * *

Issue price means issue price as defined in paragraph (f) of this section.

* * * * *

(f) *Definition of issue price*—(1) *In general.* Except as otherwise provided in this paragraph (f), *issue price* is defined in sections 1273 and 1274 and the regulations under those sections.

(2) *Bonds issued for money*—(i) *In general.* The issue price of bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public.

(ii) *Alternative method based on initial offering price.* As an alternative to the general rule in paragraph (f)(2)(i) of this section, if the underwriters have not received orders placed by the public for a substantial amount of tax-exempt bonds on or before the sale date, the issuer may treat the initial offering price to the public as the issue price of the bonds if all of the following requirements are met:

(A) The underwriters fill all orders at the initial offering price placed by the public and received by the underwriters on or before the sale date (to the extent the orders do not exceed the amount of bonds to be sold), and no underwriter fills an order placed by the public and received by the underwriters on or before the sale date at a price higher than the initial offering price.

(B) The issuer obtains from the lead underwriter in the underwriting syndicate or selling group (or, if applicable, the sole underwriter) certification of the following:

(*1*) The initial offering price;

(*2*) That the underwriters met the requirements of paragraph (f)(2)(ii)(A) of this section;

(*3*) That no underwriter will fill an order placed by the public and received after the sale date and before the issue date at a price higher than the initial offering price, except if the higher price is the result of a market change (such as a decline in interest rates) for those bonds after the sale date; and

(*4*) That the lead (or sole) underwriter will provide the issuer supporting documentation for the matters covered by the certifications in paragraphs (f)(2)(ii)(B)(*1*) and (*2*) of this section and, with regard to paragraph (f)(2)(ii)(B)(*3*) of this section, either documentation regarding any bonds for which an underwriter filled an order placed by the public and received after the sale date and before the issue date at a price higher than the initial offering price and the corresponding market change for those bonds, or a certification that no underwriter filled such orders at a price higher than the initial offering price.

(C) The issuer does not know or have reason to know, after exercising due diligence, that the certifications described in paragraph (f)(2)(ii)(B) of this section are false.

(3) *Definitions.* For purposes of this paragraph (f), the following definitions apply:

(i) *Public. Public* means any person (as defined in section 7701(a)(1)) other than an underwriter or a related party (as defined in § 1.150–1(b)) to an underwriter.

(ii) *Underwriter.* The term *underwriter* include—

(A) Any person (as defined in section 7701(a)(1)) that contractually agrees to participate in the initial sale of the bonds to the public by entering into a contract with the issuer (or with the lead underwriter to form an underwriting syndicate); and

(B) Any person that, on or before the sale date, directly or indirectly enters into a contract or other arrangement with a person described in paragraph (f)(3)(ii)(A) of this section to sell the bonds.

(4) *Special rules.* For purposes of this paragraph (f), the following special rules apply:

(i) *Separate determinations.* The issue price of bonds in an issue that do not have the same credit and payment terms is determined separately.

(ii) *Substantial amount.* Ten percent is a substantial amount.

(iii) *Bonds issued for property.* If a bond is issued for property, the adjusted applicable Federal rate, as determined under section 1288, is used in lieu of the applicable Federal rate to determine the bond's issue price under section 1274.

■ **Par. 4.** Section 1.148–11 is amended by adding paragraph (m) to read as follows:

§ 1.148–11 Effective/applicability dates.

* * * * *

(m) *Definition of issue price.* The definition of issue price in § 1.148–1(b) and (f) applies to bonds that are sold on or after the date that is 90 days after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–15411 Filed 6–23–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17, 51 and 52

RIN 2900–AO88

Per Diem Paid to States for Care of Eligible Veterans in State Homes; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; correction and clarification.

SUMMARY: The Department of Veterans Affairs is correcting and clarifying a proposed rule that published in the **Federal Register** on June 17, 2015 (80 FR 34794).

DATES: The correction and clarification are effective June 24, 2015. The comments due date remains August 17, 2015.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO88—Per Diem Paid to States for Care of Eligible Veterans in State Homes.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Richard Allman, Chief Consultant, Geriatrics and Extended Care Services (10P4G), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–6750. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The VA is correcting and clarifying its proposed rule on Per Diem Paid to States for Care of Eligible Veterans in State Homes that published June 17, 2015, in the **Federal Register** at 80 FR 34794.

Correction

On page 34809, second column, in paragraph (c)(1) of § 51.30, remove

''(except increases described in the first sentence of § 51.20(d)(2) of this part)'' and replace it with ''(except increases described in the first sentence of this section).''

Clarification

In revising Subpart B—Obtaining Recognition and Certification for Per Diem Payments, the VA inadvertently left out instructions for § 51.41. This section is not changing and will remain in the CFR if this proposed rule is adopted.

Approved: June 19, 2015.

Michael P. Shores,

Chief Impact Analyst, Office of Regulation Policy & Management.

[FR Doc. 2015–15503 Filed 6–23–15; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0881; A–1–FRL–9925–87–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision updates state regulations containing ambient air quality standards (AAQS) to be consistent with EPA's national ambient air quality standards (NAAQS). The intended effect of this action is to approve these regulations into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 24, 2015.

ADDRESSES: Submit your comments identified by Docket ID Number EPA–R01–OAR–2014–0881 for comments by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0881,'' Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109–3912, telephone 617–918–1584, facsimile 617–918–0584, email *mackintosh.david@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: March 26, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2015–15462 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–RO5–OAR–2014–0657; FRL–9929–45-Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Infrastructure SIP Requirements for the 2008 Ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS; Michigan State Board Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of state implementation plan (SIP) submissions from Michigan regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 ozone, 2010 nitrogen dioxide (NO_2), 2010 sulfur dioxide (SO_2), and 2012 fine particulate ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is also proposing to approve a submission from Michigan addressing the state board requirements under section 128 of the CAA.

DATES: Comments must be received on or before July 24, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2014–0657 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted

during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID. EPA–R05–OAR–2012–0991 and EPA–R05–OAR–2013–0435. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886–9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

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

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background of these SIP submissions?

A. What state SIP submissions does this rulemaking address?

This rulemaking addresses submissions from the Michigan Department of Environmental Management (MDEQ). The state submitted its infrastructure SIP for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS, as well as state board requirements under section 128 for incorporation into the SIP, on July 10, 2014.

B. Why did the state make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 Memo) and has issued additional guidance documents, the most recent on September 13, 2013, ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)'' (2013 Memo). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of section 110(a)(1) and (2), and address the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. To the extent that the prevention of significant deterioration (PSD) program is non-NAAQS specific, a narrow evaluation of other NAAQS will be included in the appropriate sections.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submissions from MDEQ that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon

EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions (SSM); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (director's discretion); and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final New Source Review (NSR) Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform). Instead, EPA has the authority to address each one of these substantive areas in separate rulemakings. A detailed history, interpretation, and rationale as they relate to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

III. What guidance is EPA using to evaluate these SIP submissions?

EPA's guidance for these infrastructure SIP submissions is embodied in the 2007 Memo. Specifically, attachment A of that memorandum (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. EPA issued additional guidance documents, the most recent being the 2013 Memo, which further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

IV. What is the result of EPA's review of these SIP submissions?

As noted in the 2013 Memo, pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. MDEQ provided the opportunity for public comment for these submittals that ended on May 7, 2014. Additionally, MDEQ provided an opportunity for a public hearing. The state received comments and responded to them. EPA is also soliciting comment on our evaluation of the state's infrastructure SIP submission in this notice of proposed rulemaking. MDEQ provided detailed synopses of how various components of its SIP meet each of the requirements in section 110(a)(2) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS, as applicable. The following review evaluates the state's submissions.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[1] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

The Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), sections 324.5503 and 324.5512, provide the Director of MDEQ with the authority to regulate the discharge of air pollutants, and to promulgate rules to establish standards for emissions for ambient air quality and for emissions. To maintain the 2008 ozone NAAQS, Michigan implements controls and emission limits for nitrogen oxide (NO_X), a precursor of ozone, in Michigan Administrative Code sections R 336.1801 through R 336.1834; and controls and emission limits for volatile organic compounds (VOC), also a precursor of ozone, in sections R 336.1601 through R 336.1661 and R 336.1701 through R 336.1710. The NO_X controls in sections R 336.1801 through R 336.1834 also help to maintain the 2010 NO_2 NAAQS. To maintain the 2010 SO_2 NAAQS, Michigan implements SO_2 controls and emission limits in sections R 336.1401 through R 336.1420. To maintain the 2012 $PM_{2.5}$ NAAQS, Michigan implements controls and emission limits for particulate matter sources in sections R 336.1301 through R 336.1374. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. This review of the annual monitoring plan includes EPA's determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

MDEQ's authority to promulgate rules to establish ambient air quality standard are found in Michigan Compiled laws (MCL) 324.5503 and MCL 324.5512. MDEQ continues to operate an air monitoring network; EPA approved the state's 2015 Annual Air Monitoring Network Plan on October 31, 2014, including the plan for ozone, NO_2, SO_2, and $PM_{2.5}$. MDEQ enters air monitoring data into AQS, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the

[1] See, *e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964 at 67034.

2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and NNSR programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program; (iii) identification of precursors to $PM_{2.5}$ and identification of $PM_{2.5}$ and PM_{10} [2] condensables in the PSD program; (iv) $PM_{2.5}$ increments in the PSD program; and, (v) greenhouse gas (GHG) permitting and the ''Tailoring Rule.'' [3]

Sub-Element 1: Enforcement of SIP Measures

MDEQ maintains an enforcement program to ensure compliance with SIP requirements. Part 55 of Act 451, MCL 324.5501 through 324.5542, gives MDEQ the authority to enforce emission limits and other control measures in rules, permits, and orders. In addition, MCL 324.5530 authorizes the Michigan Attorney General to commence a civil service action for appropriate relief for violations of or failure to comply with Part 55 of Act 451. The Clean Corporate Citizen Program is authorized through MCL 324.1401 through 324.1429. EPA proposes that Michigan has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: PSD Provisions That Explicitly Identify NO_X as a Precursor to Ozone in the PSD Program

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (*see* 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166.

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including those identifying NO_X as a precursor to ozone, by June 15, 2007 (*see* 70 FR 71612 at 71683, November 29, 2005).

EPA approved revisions to Michigan's PSD SIP reflecting these requirements on April 4, 2014 (*see* 79 FR 18802), and therefore proposes that Michigan has met the set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: Identification of Precursors to $PM_{2.5}$ and the Identification of $PM_{2.5}$ and PM_{10} Condensables in the PSD Program

On May 16, 2008 (*see* 73 FR 28321), EPA issued the Final Rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be SO_2 and NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The 2008 NSR Rule also specifies that VOCs are not considered to be precursors to $PM_{2.5}$ in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient $PM_{2.5}$ concentrations.

The explicit references to SO_2, NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tons per year (tpy) of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341).[4]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and

[2] PM_{10} refers to particles with diameters between 2.5 and 10 microns, oftentimes referred to as ''coarse'' particles.

[3] In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPS for the 1997 ozone and $PM_{2.5}$ NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (*see* 76 FR 23757 at 23760). This view was reiterated in EPA's August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS (*see* 77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensables, $PM_{2.5}$ increments, or the federal GHG permitting thresholds, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP, including the 2010 NO_2 NAAQS.

[4] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the DC Circuit, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1. As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the Court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR Rule in order to comply with the Court's decision. Accordingly, EPA's approval of Michigan's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subparts 2 through 5 under part D, extending as far as 10 years following designations for some elements.

PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (*see* 73 FR 28321 at 28341).

EPA approved revisions to Michigan's PSD SIP reflecting these requirements on April 4, 2014 (*see* 79 FR 18802), and therefore proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: $PM_{2.5}$ Increments in the PSD Program

On October 20, 2010, EPA issued the final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

TABLE 1—$PM_{2.5}$ INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new ''major source baseline date'' for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 40 CFR 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*). Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

On April 4, 2014 (79 FR 18802), EPA finalized approval of the applicable infrastructure SIP PSD revisions; therefore, we are proposing that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 5: GHG Permitting and the ''Tailoring Rule''

With respect to Elements C and J, EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of Element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Michigan has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)).

EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

At present, EPA is proposing that Michigan's SIP is sufficient to satisfy Elements C, D(i)(II), and J with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Michigan PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy Elements C, (D)(i)(II), and J. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision.

For the purposes of the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS infrastructure SIPs, EPA reiterates that NSR Reform regulations are not within the scope of these actions. Therefore, we are not taking action on existing NSR Reform regulations for Michigan. EPA approved Michigan's minor NSR program on May 6, 1980 (*see* 45 FR 29790); and since that date, MDEQ and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Certain sub-elements in this section overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing

significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.

On February 17, 2012, EPA promulgated designations for the 2010 NO_2 NAAQS, stating for the entire country that, ''The EPA is designating areas as ''unclassifiable/attainment'' to mean that available information does not indicate that the air quality in these areas exceeds the 2010 NO_2 NAAQS'' (*see* 77 FR 9532). For comparison purposes, EPA examined the design values [5] from NO_2 monitors in Michigan and surrounding states. The highest design value based on data collected between 2011 and 2013 was 44 ppb at a monitor in Detroit, MI, compared to the standard which is 100 ppb for the 2010 NO_2 NAAQS. Additionally, Michigan has SIP approved rules that limit NO_X emissions, including rules in Michigan Administrative Code sections R 336.1801 through R 336.1834. EPA believes that, in conjunction with the continued implementation of the state's SIP-approved PSD and NNSR regulations, these low monitored values of NO_2 will continue in and around Michigan. In other words, the NO_2 emissions from Michigan are not expected to cause or contribute to a violation of the 2010 NO_2 NAAQS in another state, and these emissions are not likely to interfere with the maintenance of the 2010 NO_2 NAAQS in another state. Therefore, EPA proposes that Michigan has met transport prongs 1 and 2 related to section 110(a)(2)(D)(i)(I) for the 2010 NO_2 NAAQS. Michigan, as noted in its July 11, 2014, clarification letter, did not make submittals pertaining to section 110(a)(2)(D)(i)(I) for the 2008 ozone, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Section 110(a)(2)(D)(i)(II) requires that SIPs include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

EPA notes that Michigan's satisfaction of the applicable infrastructure SIP PSD requirements for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS have been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

EPA has previously approved revisions to Michigan's SIP that meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. These revisions included provisions that: Explicitly identify NO_X as a precursor to ozone, explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$, and regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations and establishing emissions limits. EPA has also previously approved revisions to Michigan's SIP that incorporate the $PM_{2.5}$ increments and the associated implementation regulations including the major source baseline date, trigger date, and level of significance for $PM_{2.5}$ per the 2010 NSR Rule. EPA is proposing that Michigan's SIP contains provisions that adequately address the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Michigan's EPA-approved NNSR regulations found in Part 2 of the SIP, specifically in Michigan Administrative Code sections R 336.1220 and R 336.1221, are consistent with 40 CFR 51.165, or 40 CFR part 51, appendix S. Therefore, EPA proposes that Michigan has met all of the applicable PSD requirements for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS for transport prong 3 related to section 110(a)(2)(D)(i)(II).

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2013 Memo states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze.

In today's rulemaking, EPA is not proposing to approve or disapprove Michigan's satisfaction of the visibility protection requirements of section 110(a)(2)(D)(i)(II), transport prong 4, for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. Instead, EPA will evaluate Michigan's compliance with these requirements in a separate rulemaking.[6]

Section 110(a)(2)(D)(ii) requires that each SIP contains adequate provisions requiring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement, respectively).

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

Michigan has provisions in its EPA-approved PSD program in Michigan Administrative Code section R 336.2817 requiring new or modified sources to notify neighboring states of potential negative air quality impacts, and has referenced this program as having adequate provisions to meet the requirements of section 126(a). EPA is proposing that Michigan has met the infrastructure SIP requirements of section 126(a). Michigan does not have any obligations under any other subsection of section 126, nor does it have any pending obligations under section 115. EPA, therefore, is proposing that Michigan has met all applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

MDEQ's SIP program is funded through 105 and 103 grants and matching funds from the state's General Fund. As discussed in earlier sections, MDEQ has the legal authority to carry

[5] The level of the 2010 NO_2 NAAQS for is 100 parts per billion (ppb) and the form is the 3-year average of the annual 98th percentile of the daily 1-hour maximum. For the most recent design values, see *http://www.epa.gov/airtrends/values.html.*

[6] Michigan has an approved regional haze plan for most non-EGUs. Michigan's plan for EGUs relied on the Clean Air Interstate Rule that has been recently superseded by the Cross State Air Pollution Rule to which Michigan EGU sources are also subject.

out the Michigan SIP under Act 451 and the Executive Reorganization Order 2011–1. Michigan's PSD regulations provide adequate resources to permit GHG sources. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires that each SIP contains provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

On July 10, 2014, MDEQ submitted rules from the Civil Service Rule at 2–8.3(a)(1) for incorporation into the SIP, pursuant to section 128 of the CAA. MDEQ does not have a state board. The authority to approve air permits and enforcement orders rest with the MDEQ Director and his designee. These authorities are found in MCL 324.5503, MCL 324.301(b), Executive Order No. 1995–18, and delegation letter from the MDEQ Director to the Air Quality Division chief and supervisors. Therefore, section 128(a)(1) of the CAA is not applicable in Michigan.

Under section 128(a)(2), the head of the executive agency with the power to approve enforcement orders or permits must adequately disclose any potential conflicts of interest. The Civil Service Rule 2–8.3(a)(1) contains provisions that adequately satisfy the requirements of section 128(a)(2). This provision requires that ''At least annually, an employee shall disclose to the employee's appointing authority all personal or financial interests of the employee or members of the employee's immediate family in any business or entity with which the employee has direct contact while performing official duties as a classified employee'' (Civil Service Rule 2–8.3(a)(1)). The Civil Service Rule 1–9.1 subjects the MDEQ Director and designees to this provision. Therefore, when evaluated together in the context of section 128(a)(2), the director of MDEQ or his/her designee must fully disclose any potential conflicts of interest relating to permits or enforcement orders under the CAA. As a result, we are proposing to approve Civil Service Rule 2–8.3(a)(1) into the SIP. On July 10, 2014, MDEQ requested that these rules satisfy not only the applicable requirements of section 128 of the CAA, but that they satisfy any applicable requirements of section 110(a)(2)(E) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. Therefore, EPA is proposing that MDEQ has satisfied the applicable infrastructure SIP requirements for this section of 110(a)(2)(E) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

MDEQ implements a stationary source monitoring program under the authority of MCL 324.5512 and MCL 324.5503 of Act 451. Additional emissions testing, sampling, and reporting requirements are found in Michigan Administrative Code sections R 336.201 through R 336.202 and R 336.2011 through R 336.2199. Emissions data is submitted to EPA through the National Emissions Inventory system and is available to the public online and upon request. EPA proposes that Michigan has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for authority that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. The 2013 Memo states that infrastructure SIP submissions should specify authority, rested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

MDEQ has the authority to require immediate discontinuation of air contamination discharges that constitute an imminent and substantial endangerment to public health, safety, welfare, or the environment under MCL 324.5518 of Act 451. MCL 324.5530 provides for civil action by the Michigan Attorney General for a violation as just described. EPA proposes that Michigan has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

MDEQ continues to update and implement needed revisions to Michigan's SIP as necessary to meet ambient air quality standards. Authority for MDEQ to adopt emissions standards and compliance schedules is found at MCL 324.5512 and MCL 324.5503 of Act 451. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection

The evaluation of the submissions from Michigan with respect to the

requirements of section 110(a)(2)(J) is described below.

Sub-Element 1: Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

Michigan actively participates in the regional planning efforts that include business, community groups, state rule developers, representatives from the FLMs, and other affected stakeholders. Michigan Administrative Code section R 336.2816 requires that FLMs are provided with notification of permit applications that may impact class I areas. Additionally, Michigan is an active member of the Lake Michigan Air Directors Consortium, which consists of collaboration with the States of Illinois, Wisconsin, Indiana, Minnesota, and Ohio. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and must enhance public awareness of measures that can be taken to prevent exceedances.

MDEQ notifies the public if there are NAAQS exceedances and of any public health hazards associated with those exceedances through CleanAirAction!, AirNow, and EnviroFlash as well as posting on its Web site. MDEQ published an annual air quality report comparing Michigan monitors to the NAAQS. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. MDEQ's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J). Therefore, EPA proposes that Michigan has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(J) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions of any NAAQS pollutant and submission of such data to EPA upon request.

MDEQ continues to review the potential impact of major, and some minor, new and modified sources using computer models. Michigan's rules regarding air quality modeling are contained in Michigan Administrative Code sections R 336.1240 and R 336.1241. These modeling data are available to EPA or other interested parties upon request. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires that SIPs mandate that each major stationary source pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

MDEQ implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62969); revisions to the program were approved on November 10, 2003 (68 FR 63735). MDEQ's authority to levy and collect an annual air quality fee from fee-subject facilities is found in section 324.5522 of Act 451. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

M. Section 110(a)(2)(M)—Consultation/ Participation by Affected Local Entities

States must consult with and allow participation from local political subdivisions affected by the SIP.

MDEQ regularly works with local political subdivisions for attainment planning purposes and actively participates in regional planning organizations. Rulemaking is subject to notice, comment, and hearing requirements under the Michigan Administrative Procedures Act, 1969 PA 306 and is authorized in MCL 324.5512. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS.

V. What action is EPA taking?

EPA is proposing to approve most elements of submissions from MDEQ certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2008 ozone, 2010 NO_2, 2010 SO_2, and 2012 $PM_{2.5}$ NAAQS. In addition, EPA is proposing to approve a submission from Michigan intended to meet the state board requirements of section 128, specifically the Civil Service Rule 2–8.3(a)(1).

EPA's proposed actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

Element	2008 Ozone	2010 NO_2	2010 SO_2	2012 $PM_{2.5}$
(A)—Emission limits and other control measures.	A	A	A	A
(B)—Ambient air quality monitoring/data system.	A	A	A	A
(C)1—Program for enforcement of control measures.	A	A	A	A
(C)2—PSD.	A	A	A	A
(D)1—I Prong 1: Interstate transport—significant contribution.	NA	A	NA	NA
(D)2—I Prong 2: Interstate transport—interfere with maintenance.	NA	A	NA	NA
(D)3—II Prong 3: Interstate transport—prevention of significant deterioration.	A	A	A	A
(D)4—II Prong 4: Interstate transport—protect visibility.	NA	NA	NA	NA

Element	2008 Ozone	2010 NO_2	2010 SO_2	2012 $PM_{2.5}$
(D)5—Interstate and international pollution abatement.	A	A	A	A
(E)1—Adequate resources.	A	A	A	A
(E)2—State board requirements.	A	A	A	A
(F)—Stationary source monitoring system.	A	A	A	A
(G)—Emergency power.	A	A	A	A
(H)—Future SIP revisions.	A	A	A	A
(I)—Nonattainment planning requirements of part D.	+	+	+	+
(J)1—Consultation with government officials.	A	A	A	A
(J)2—Public notification.	A	A	A	A
(J)3—PSD.	A	A	A	A
(J)4—Visibility protection.	+	+	+	+
(K)—Air quality modeling/data.	A	A	A	A
(L)—Permitting fees.	A	A	A	A
(M)—Consultation and participation by affected local entities.	A	A	A	A

In the above table, the key is as follows:
A = Approve
NA = No Action/Separate Rulemaking
+ = Not Germaine to Infrastructure.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Michigan Civil Service Commission Rule 2–8.3(a)(1) entitled ''Disclosure,'' effective October 1, 2013. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: June 11, 2015.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2015–15556 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152

[EPA–HQ–OPP–2010–0305; FRL–9927–50]

RIN 2070–AJ79

Notification of Submission to the Secretaries of Agriculture and Health and Human Services; Pesticides; Revisions to Minimum Risk Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretaries of Agriculture and Health and Human Services.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) and the Secretary of the United States Department of Health and Human Services (HHS) a draft regulatory document concerning the draft final rule entitled ''Pesticides; Revisions to Minimum Risk Exemption.'' The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID)

number EPA–HQ–OPP–2010–0305, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Ryne Yarger, Field and External Affairs Divison (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington DC 20460–0001; telephone number: (703) 605–1193; email address: *yarger.ryne@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Taking?

Section 25(a)(2)(B) of FIFRA requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. Similarly, FIFRA section 21(b) requires the EPA Administrator to provide the Secretary of HHS with a copy of any draft final rule pertaining to a public health pesticide at least 30 days before publishing it in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If either Secretary comments in writing regarding the draft final rule within 15 days after receiving it, the EPA Administrator shall include the comments of the Secretary, if requested by the Secretary, and the EPA Administrator's response to those comments with the final rule that publishes in the **Federal Register**. If either Secretary does not comment in writing within 15 days after receiving the draft final rule, the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

II. Do Any Statutory and Executive Order Reviews Apply to This Notification?

No. This document is merely a notification of submission to the Secretaries of USDA and HHS. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 152

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

Dated: May 26, 2015.

Jack Housenger,

Director, Office of Pesticide Programs.

[FR Doc. 2015–15313 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0230; FRL–9929–03]

RIN 2070–ZA16

Banda de Lupinus albus doce (BLAD); Proposed Pesticide Tolerance; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; technical correction.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of May 29, 2015, concerning Banda de Lupinus albus doce (BLAD), in or on all food commodities. This document corrects typographical errors.

DATES: Comments must be received on or before July 28, 2015.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of May 29, 2015 (80 FR 30640) (FRL–9927–02).

FOR FURTHER INFORMATION CONTACT: Robert McNally, Director, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the May 29, 2015 proposed rule a list of those who may be potentially affected by this action.

II. What does this technical correction do?

EPA issued a proposed rule in the **Federal Register** of May 29, 2015, that was concerning Banda de Lupinus albus doce (BLAD), in or on all food commodities. EPA inadvertently listed a government agency incorrectly.

The preamble for FR Doc. 2015–12530 published in the **Federal Register** of May 29, 2015 (80 FR 30640) (FRL–9927–02) is corrected as follows:

1. On page 30640, second column, under the heading ENVIRONMENTAL PROTECTION AGENCY, line 4, correct Banda de Lupinus albus doce BLAD to read Banda de Lupinus albus doce (BLAD).

2. On page 30641, second column, paragraph 3, line 3, Federal Drug Administration is corrected to read: Food and Drug Administration.

III. Do any of the statutory and executive order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit VII. of the May 29, 2015 proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2015.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division.

[FR Doc. 2015–15403 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 80, No. 121
Wednesday, June 24, 2015

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 18, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 24, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC, 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Census of Agriculture Content Test.

OMB Control Number: 0535–0243.

Summary of Collection: The purpose of the content test is to evaluate factors impacting the National Agricultural Statistics Service (NASS) Census of Agriculture program. The factors include, but are not limited to, respondent burden, questionnaire format and design, Internet instrument performance, new items, changes in question wording and location, ease of completion, and processing methodology such as edit and summary. The proposed forms and letters will be used in a test in 2015–2016 in preparation for taking the 2017 Census of Agriculture. NASS is responsible for conducting the Census of Agriculture under the authority of the Census of Agriculture Act of 1997, Public Law 105–113 (U.S.C. 2204g).

This is a reinstatement of the Census of Agriculture Content Test, which is conducted every five years prior to the full Census of Agriculture. The last content test was done in 2010 in preparation for the 2012 Census of Agriculture.

Need and Use of the Information: The Census of Agriculture Content Test is designed to evaluate a number of factors affecting the Census of Agriculture program. It is critical to NASS' ability to design a successful census survey. The actual Census of Agriculture is required by law every five years and serves as the basis for many agriculturally-based decisions. Less frequent content test collections would hinder NASS' ability to adequately evaluate changes needed to improve census data collection and therefore recognize changing trends in agriculture.

Description of Respondents: Farms.

Number of Respondents: 65,400.

Frequency of Responses: Reporting: Other (every 5 years).

Total Burden Hours: 42,552.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–15434 Filed 6–23–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: American Community Survey (ACS) Methods Panel Tests.

OMB Control Number: 0607–0936.

Form Number(s): ACS–1, ACS–1(SP), ACS–1PR, ACS–1PR(SP), ACS CATI(HU), ACS CAPI(HU), ACS (Internet), ACS–1(GQ), ACS–1(GQ)(PR)

Type of Request: Regular Submission.

Number of Respondents: 636,000.

Average Hours per Response: 36 minutes.

Burden Hours: 388,167.

Needs and Uses:

The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) for the American Community Survey (ACS) Methods Panel.

The ACS samples about 3.5 million housing unit addresses in the United States and 36,000 in Puerto Rico each year to collect detailed socioeconomic data. The ACS also samples about 195,000 residents living in Group Quarter (GQ) facilities to collect detailed socioeconomic data. Resulting tabulations from that data collection are provided on a yearly basis. The ACS allows the Census Bureau to provide timely and relevant housing and socio-economic statistics, even for low levels of geography.

An ongoing data collection effort with an annual sample of this magnitude requires that the ACS continue research, testing, and evaluations aimed at improving data quality, achieving survey cost efficiencies, and improving ACS questionnaire content and related data collection materials. The ACS Methods Panel is a research program

that is designed to address and respond to emerging issues and survey needs. Over the next three years, the Methods Panel may include testing methods for increasing survey efficiencies, reducing survey cost, lessening respondent burden, and improving response rates. Testing may also include methods to improve data quality.

At this time, plans are in place to propose several tests: A summer 2015 mail messaging test, a fall 2015 mail messaging test, a 2016 ACS Content Test, a 2016 mail messaging test, a 2017 self-response test with the potential to test both mail messaging as well as questionnaire content, a 2018 self-response test building on the previous tests, as well as tests of Internet data collection enhancements in 2017 and 2018. Since the ACS Methods Panel is designed to address emerging issues, we may conduct additional testing as needed. Any additional testing would focus on methods for reducing data collection costs, improving data quality, revising content, or testing new questions that have an urgent need to be included on the ACS. Please note that this proposal includes summer and fall 2015 mail messaging tests, which were not included in the pre-submission notice.

First, in response to respondent concerns about prominent references to the mandatory participation in the ACS, the Census Bureau plans to test methods to soften the mandatory messages while emphasizing the benefits of participation in the survey. In May of 2015, the Census Bureau is conducting a test to study the impact of removing the phrase, ''YOUR RESPONSE IS REQUIRED BY LAW'' from the envelopes used in the second and fourth mailing to respondents. The summer 2015 test will advance the study of mandatory messaging by modifying the messages included in several of the mailings, including postcards and letters.

Second, in response to declining response rates and increasing costs, the Census Bureau plans to analyze methods to increase self-response, the least expensive mode of data collection, especially Internet response. The tests would include changes to messages included in mail materials to motivate the public to respond to the ACS, increase awareness of the ACS, as well as changes to design elements of the materials, including color and graphics. Tests would be conducted in 2015, 2016, 2017, and 2018 building on previous tests' findings.

Additionally, as part of the mail messaging tests in 2017 and 2018, the Census Bureau may include content changes based on continued review of the ACS content in an effort to address respondent concerns and potentially reduce respondent burden. Among other activities, the Census Bureau is reviewing questions to determine if we can revise the wording in a way to make them less burdensome for survey respondents, especially for questions determined during the 2014 ACS Content Review to be especially sensitive, difficult, or time-consuming. Proposed changes to content would be cognitively tested and then included in a field test to assess the impact on both respondent burden and data quality.

Third, in response to Federal agencies' requests for new and revised ACS questions, the Census Bureau plans to conduct the 2016 ACS Content Test. Changes to the current ACS content and the addition of new content were identified through the OMB Interagency Committee for the ACS, and must be approved for testing by the OMB. The objective of the 2016 ACS Content Test is to determine the impact of changing question wording, response categories, and redefinition of underlying constructs on the quality of the data collected. Revisions to twelve questions/topics are proposed for inclusion in the 2016 ACS Content Test:

* Telephone Service
* Computer and Internet
* Relationship
* Race and Hispanic Origin
* Health Insurance
* Health Insurance Premium and Subsidies (new questions)
* Journey to Work: Commuting Mode
* Journey to Work: Time Left for Work
* Number of Weeks Worked
* Class of Worker
* Industry and Occupation
* Retirement Income

The Census Bureau proposes to evaluate changes to the questions by comparing the revised questions to the current ACS questions, or for new questions, to compare the performance of question versions to each other as well as to other well-known sources of such information.

Fourth, the ACS began collecting data using the Internet in January 2013. To date, the Web site used to collect the data is designed for a desktop computer screen. The Internet tests being proposed in 2017 and 2018 would evaluate Internet data collection via mobile devices, examine ways to reduce Internet break-offs, email testing, as well as other improvements to Internet data collection.

Finally, we will continue to examine the operational issues, research the data quality, collect cost information and make recommendations in the future for this annual data collection. The ACS Methods Panel testing, such as the 2015 Mail Messaging Tests, 2016 Content Test, 2016 Mail Messaging Test, 2017 Self-Response Test, and 2018 Self-Response Test, provide a mechanism to investigate ways to reduce or at least maintain data collection costs and improve the quality of the data.

Affected Public: Individuals or Households.

Frequency: Multiple one-time tests over a 3-year period.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, sections 141 and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–15532 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau Of Industry And Security

In the Matter of: Armin Shir Mohammadi, 22505 Rio Aliso Drive, Lake Forest, CA 92630–5514; Order Denying Export Privileges

On June 21, 2013, in the U.S. District Court for the Southern District of California, Armin Shir Mohammadi (''Mohammadi'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (''IEEPA''). Specifically, Mohammadi knowingly and willfully conspired to export and caused the exportation, sale, and supply of satellite communication equipment, navigation equipment, and related goods from the United States to persons in third countries with knowledge that such goods were intended for supply, transshipment, and reexportation, to Iran without having first obtained the required authorization from the Secretary of Treasury. Mohammadi was sentenced one year and one day of imprisonment.

Section 766.25 of the Export Administration Regulations (''EAR'' or

''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Mohammadi's conviction for violating the IEEPA, and in accordance with Section 766.25 of the Regulations, BIS has provided notice and an opportunity for Mohammadi to make a written submission to BIS. BIS has not received a submission from Mohammadi.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Mohammadi's export privileges under the Regulations for a period of 10 years from the date of Mohammadi's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Mohammadi had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until June 21, 2023, Armin Shir Mohammadi, with a last known address of 22505 Rio Aliso Drive, Lake Forest, CA 92630–5514, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Mohammadi by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Mohammadi may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Mohammadi. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 21, 2023.

Issued this 18th day of June, 2015.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2015–15497 Filed 6–23–15; 8:45 am]

BILLING CODE P

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2015). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–853, A–570–937, C–570–938]

Citric Acid and Certain Citrate Salts From Canada and the People's Republic of China: Continuation of the Antidumping Duty Orders on Canada and the People's Republic of China, and Continuation of the Countervailing Duty Order on the People's Republic of China

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determined that revocation of the antidumping duty (AD) orders on citric acid and certain citrate salts (citric acid) from Canada and the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping, and that revocation of the countervailing duty (CVD) order on citric acid from the PRC would likely to

lead to continuation or recurrence of net countervailable subsides. The International Trade Commission (ITC) also determined that revocation of these AD and CVD orders would likely lead to continuation or recurrence of material injury to an industry in the United States. Therefore, the Department is publishing this notice of continuation of these AD and CVD orders.

DATES: *Effective Date:* June 24, 2015.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson (Canada AD Order), AD/CVD Operations, Office II; Krisha Hill (PRC AD Order), AD/CVD Operations, Office IV; or Elizabeth Eastwood (PRC CVD Order), AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4929, (202) 482–4037, or (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2014, the Department initiated [1] and the ITC instituted [2] five-year (sunset) reviews of the AD orders on citric acid from Canada and the PRC, and the CVD order on citric acid from the PRC, pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, the Department determined that revocation of the AD orders on citric acid from Canada and the PRC would likely lead to a continuation or recurrence of dumping, and that revocation of the CVD order on citric acid from the PRC would likely lead to continuation or recurrence of net countervailable subsidies. Therefore, the Department notified the ITC of the magnitude of the margins of dumping and the subsidy rates likely to prevail should the orders be revoked, pursuant to sections 752(b) and (c) of the Act.[3]

On June 17, 2015, the ITC published its determinations, pursuant to sections 751(c)(1) and 752(a) of the Act, that revocation of the AD orders on citric acid from Canada and the PRC, and the CVD order on citric acid from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Orders

The scope of the orders include all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the orders also include all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the orders do not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the orders include the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of these AD and CVD orders would likely lead to a continuation or recurrence of dumping or countervailable subsidies, and material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on citric acid from Canada and the PRC and the CVD order on citric acid from the PRC. U.S. Customs and Border Protection (CBP) will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These five-year (sunset) reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to 777(i) the Act and 19 CFR 351.218(f)(4).

Dated: June 17, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–15399 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 18279 (April 1, 2014).

[2] *See Citric Acid and Certain Citrate Salts from Canada and China; Institution of Five-Year Reviews,* 79 FR 18311 (April 1, 2014).

[3] *See Citric Acid and Certain Citrate Salts From Canada and the People's Republic of China: Final Results of Expedited First Sunset Reviews of the Antidumping Duty Orders,* 79 FR 45763 (August 6, 2014); and *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Expedited First Sunset Review of the Countervailing Duty Order,* 79 FR 45761 (August 6, 2014).

[4] *See Citric Acid and Certain Citrate Salts from Canada and China; Determination,* 80 FR 34693 (June 17, 2015).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 24, 2015.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC).[1] The period of review (POR) is December 1, 2013, through November 30, 2014.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke, or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of

[1] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China,* 69 FR 70122 (December 2, 2004).

Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4947 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2015, based on timely requests for review [2] by Positec USA, Inc., and RW Direct, Inc. (together, Positec), and NPS Public Furniture Corp, d/b/a National Public Seating (NPS), importers of subject merchandise, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on hand trucks from the PRC covering the period December 1, 2013, through November 30, 2014.[3] The review covers three companies.[4] On April 8, 2015, and April 16, 2015, respectively, Positec and NPS timely withdrew their requests for an administrative review of all three companies listed in the Initiation Notice.[5] No other party requested a review of these companies or any other exporters of subject merchandise.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, both Positec and NPS timely withdrew their review requests by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order on hand trucks from the PRC. As a result, pursuant to 19 CFR 351.213(d)(1), we are rescinding, in its entirety, the administrative review of hand trucks from the PRC covering the period December 1, 2013, through November 30, 2014.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notifications

This notice serves as the only reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final 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, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 17, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty.

[FR Doc. 2015–15537 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* letter from Positec to the Secretary of Commerce entitled, ''Request for Administrative Review: Hand Trucks and Certain Parts Thereof from the People's Republic of China,'' dated December 31, 2014; *see also* letter from NPS to the Secretary of Commerce entitled, ''Request for Administrative Review: Antidumping Duty Order on Hand Trucks and Certain Parts Thereof from the People's Republic of China (CASE NO: A–570–891) (POR: December 1, 2013-November 30, 2014),'' dated December 31, 2014.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 6041 (February 4, 2015) (Initiation Notice).

[4] The three companies are: Huzhou Shengli Industry Manufacturing Co., Ltd., Jam (Su Zhou) Metal Manufacturing Co, Ltd., and Positec (Macao Commercial Offshore), Ltd.

[5] *See* letter from Positec to the Secretary of Commerce entitled, ''Withdrawal of Administrative Request for Review Hand Trucks and Certain Parts Thereof from the People's Republic of China,'' dated April 8, 2015; *see also* letter from NPS to the Secretary of Commerce entitled, ''Withdrawal of Review Requests: Antidumping Duty Order on Hand Trucks and Certain Parts Thereof from the People's Republic of China (CASE NO: A–570–891) (POR: December 1, 2013-November 30, 2014),'' dated April 16, 2015.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–803]

Purified Carboxymethylcellulose From Finland: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 9, 2015, the Department of Commerce (the Department) published the *Preliminary Results* of the 2013–2014 administrative review of the antidumping duty order on Purified Carboxymethylcellulose from Finland.[1] The period of review (POR) is July 1, 2013, through June 30, 2014. This review covers one respondent, CP Kelco Oy (CP Kelco). The Department invited interested parties to comment on the *Preliminary Results.* No parties commented. Accordingly, our final results remain unchanged from the *Preliminary Results.*

DATES: *Effective Date:* June 24, 2015.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4475 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2015, the Department published the *Preliminary Results.* We invited interested parties to comment on the *Preliminary Results,* but no comments were received.

Scope of the Order

The merchandise covered by the order is all purified CMC, sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through

[1] *See Purified Carboxymethylcellulose from Finland: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 19072 (April 9, 2015) (*Preliminary Results*), and the accompanying Decision Memorandum (Preliminary Decision Memorandum).

heat treatment. Purified CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Final Results of Review

Because no party commented on the *Preliminary Results,* we made no changes to these final results. We determine that the following dumping margin exists for the period July 1, 2013, through June 30, 2014:

Manufacturer/Exporter	Weighted-average dumping margin (percentage)
CP Kelco Oy	0.00

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Because CP Kelco's weighted average dumping margin is zero, in accordance with the *Final Modification,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[2] For entries of subject merchandise during the POR produced by CP Kelco Oy for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3]

We intend to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, consistent with section 751(a)(2) of the Act: (1) The cash deposit rate for CP Kelco will be 0.00 percent, the weighted average dumping margin established in the final results of this administrative review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less than fair value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be 6.65 percent, which is the all-others rate established in the LTFV investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

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

The Department is issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 17, 2015.

Paul Piquado,

Assistant Secretary Enforcement and Compliance.

[FR Doc. 2015–15538 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

[3] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[4] *See Notice of Antidumping Duty Order; Purified Carboxymethylcellulose From Finland, Mexico, the Netherlands and Sweden,* 70 FR 39734 (July 11, 2005).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; NIST SURF Program Student Applicant Information

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 24, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Brandi Toliver, NIST, 100 Bureau Drive, Stop 1090, Gaithersburg, MD 20899–1090, tel. (301) 972–2371, or *brandi.toliver@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request to revise the previously, approved information collection, as NIST will be consolidating two ''collection instruments'' into one application for both Gaithersburg and Boulder locations.

The purpose of this collection is to gather information requested on behalf

of the NIST Summer Undergraduate Research Fellowship (SURF) Program for both Gaithersburg and Boulder locations. The information is submitted by the university on behalf of the student applicants. The student information is utilized by laboratory program coordinators and technical evaluators to determine student eligibility, select students to appropriate research projects, which match their needs, interests, and academic preparation, and ultimately, make offers to participate in the program. The information includes: Student name, host institution, email address/contact information, permanent address, choice of SURF-specific location (Boulder and/or Gaithersburg), class standing, first- and second-choice NIST laboratories/projects they wish to apply to, previous SURF participation/mentor identification, academic major/minor, current overall GPA, need for housing and gender (for housing purposes only), special skills (laboratory, computer programming etc.), availability dates, resume, personal statement of commitment and research interests, two letters of recommendation, academic transcripts, ability to verify U.S. citizenship or permanent legal residency, acknowledgement of background check, and requirements for REAL ID Act.

II. Method of Collection

The Student Application Information form will be available on the web. The collection is currently limited to paper form and is *required* to be scanned and submitted electronically.

III. Data

OMB Control Number: 0693–0042.

Form Number(s) None.

Type of Review: Regular submission (revision of an approved information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 650.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 325.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–15531 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S. C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Documentation of Fish Harvest.

OMB Control Number: 0648–0365.

Form Number(s): NA.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 25.

Average Hours per Response: 30 minutes.

Burden Hours: 50.

Needs and Uses: This request is for extension of a currently approved information collection.

The seafood dealers who process red porgy, gag, black grouper, or greater amberjack during seasonal fishery closures must maintain documentation, as specified in 50 CFR part 300 subpart K, that such fish were harvested from areas other than the South Atlantic. The documentation includes information on the vessel that harvested the fish and on where and when the fish were offloaded. The information is required for the enforcement of fishery regulations.

Affected Public: Businesses or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 18, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–15446 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Satellite Ground Station Customer Questionnaire.

OMB Control Number: 0648-0227.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 300.

Average Hours per Response: 5 minutes.

Burden Hours: 25 hours.

Needs and Uses: This request is for an extension of a currently approved information collection.

NOAA asks people who operate ground receiving stations that receive data from NOAA satellites to complete a questionnaire about the types of data received, its use, the equipment involved, and similar subjects. The data obtained are used by NOAA for short-term operations and long-term planning. Collection of this data assists us in complying with the terms of our Memorandum of Understanding (MOU) with the World Meteorological Organization: United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) on area of common interest (2008).

Affected Public: Not-for-profit institutions; business or other for-profit organizations, individuals or

households; federal government; state, local or tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 18, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–15448 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Report of Whaling Operations.

OMB Control Number: 0648–0311.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 158.

Average Hours per Response: 30 minutes for reports on whales struck or on recovery of dead whales, including providing the information to the relevant Native American whaling organization; 5 minutes for the relevant Native American whaling organization to type in each report; and 5 hours for the relevant Native American whaling organization to consolidate and submit reports.

Burden Hours: 45.

Needs and Uses: This request is for extension of a current information collection.

Native Americans may conduct certain aboriginal subsistence whaling in accordance with the provisions of the International Whaling Commission (IWC). In order to respond to obligations under the International Convention for the Regulation of Whaling, and the IWC, captains participating in these operations must submit certain information to the relevant Native American whaling organization about strikes on and catch of whales. Anyone retrieving a dead whale is also required to report. Captains must place a distinctive permanent identification mark on any harpoon, lance, or explosive dart used, and must also provide information on the mark and self-identification information. The relevant Native American whaling organization receives the reports, compiles them, and submits the information to NOAA.

The information is used to monitor the hunt and to ensure that quotas are not exceeded. The information is also provided to the International Whaling Commission (IWC), which uses it to monitor compliance with its requirements.

Affected Public: Individuals or households; state, local or tribal governments.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 18, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–15447 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD986

Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The NMFS Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, has made a preliminary determination that an Exempted Fishing Permit application from the University of Rhode Island contains all of the required information and warrants further consideration. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on Exempted Fishing Permit applications.

DATES: Comments must be received on or before July 9, 2015.

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

- *Email: NMFS.GAR.EFP@noaa.gov.* Include in the subject line ''Comments on URI Bycatch Study EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on URI Bycatch Study EFP.''

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, 978–281–9122.

SUPPLEMENTARY INFORMATION: The University of Rhode Island (URI) submitted a complete application for an Exempted Fishing Permit (EFP) to conduct a 1-year lobster trap study that Federal regulations would otherwise restrict. The purpose of this study is to provide data on the effect of alternative escape vent designs on Jonah crab and lobster catch in an attempt to improve the retention of Jonah crabs while not increasing catch of sub-legal lobsters. This EFP proposes to test the modified vents over a wide range of Federal waters throughout Lobster Management Areas 2 and 3, covering statistical areas 515, 521, 526, 537, and 616 (see Figure 1).

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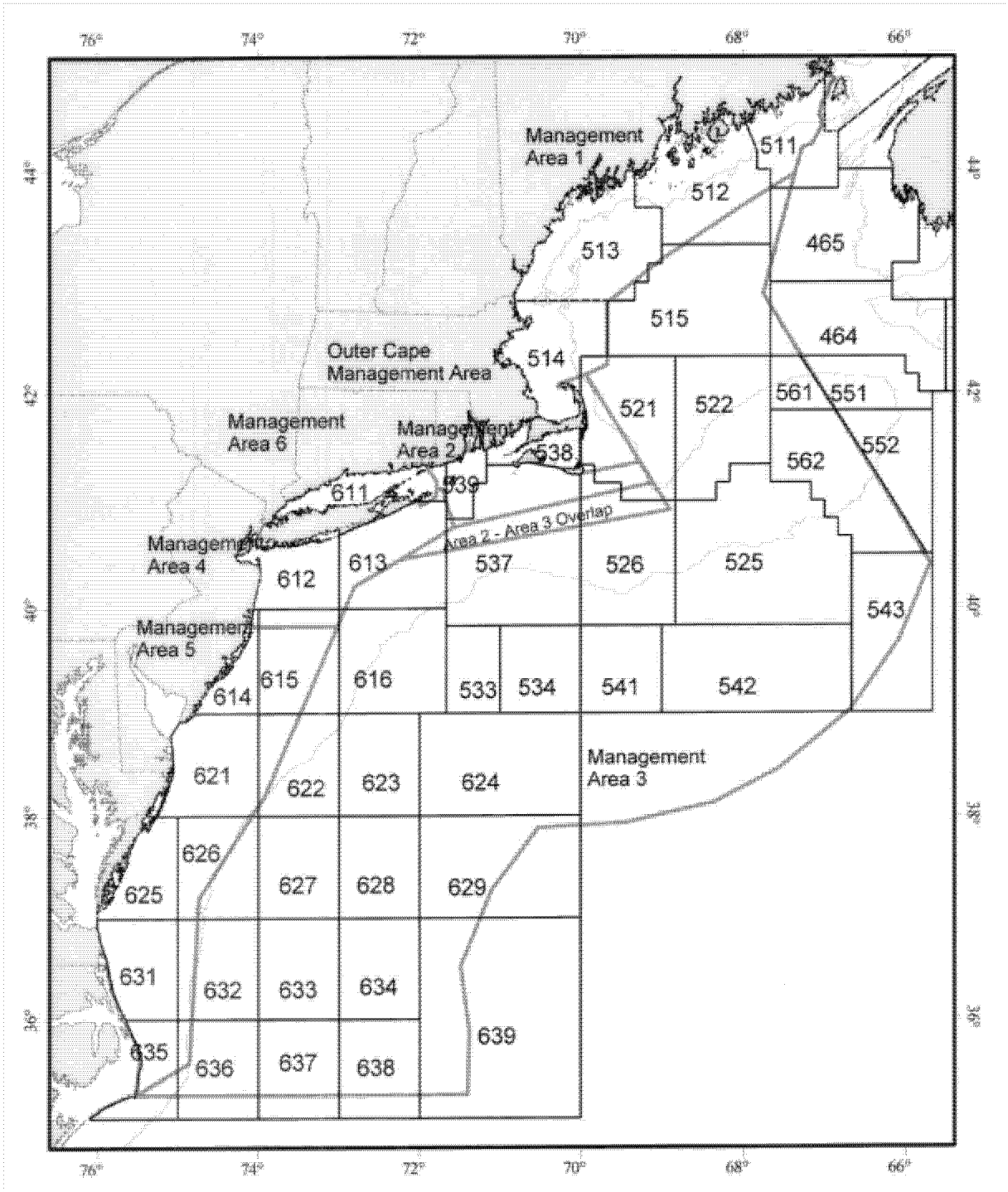
Figure 1. Lobster Conservation Management Area and Statistical Areas



Site selection would be based on each vessel's commercial fishing habits. URI is conducting this study to field test laboratory hypotheses that vents smaller than the minimum 5¾-inch (14.61-cm) regulatory size will allow for greater retention of Jonah crab without increasing lobster mortality. This is in response to the development of a draft Interstate Fishery Management Plan for Jonah Crab that proposes a range of legal harvest width alternatives from no minimum size to 5.5 inches (13.97 cm). These proposed minimum sizes are smaller than the legal vent size length of 5¾ inches (14.61 cm) for Federal lobster gear. Funding for this lobster trap escape vent study is provided by a 2014 NOAA Bycatch Reduction Engineering Program grant.

URI is requesting exemptions from the following regulations to allow commercial lobster vessels to set, haul, and retain on-board the experimental traps:

• Trap limit requirements to allow each vessel to fish 15 traps more than each vessel's allocation,

• Gear specification requirements to allow for the use of smaller than required and closed escape vents, and

• Trap tag requirements to allow for untagged traps.

Each vessel will use five each of the three modified traps for sampling: Ventless; smaller vent length of 3½ inches (8.89 cm); and smaller vent length of 3$^{9}/_{16}$ inches (9.05 inches).

The EFP would authorize participating vessels to deploy up to three modified traps within their normal trawl configuration, not to exceed a total deployment of 15 modified traps across all trawls, per vessel. Traps will be hauled during normal commercial fishing activity, at least bi-monthly over the course of six months, up to one year. Catch from modified traps will be held briefly on-board vessels to record measurements and sex of crabs and lobster, trap vent type, and soak time. After data are recorded, the applicant states that all catch from modified traps will be promptly discarded and no catch from modified traps would be retained for sale. All catch data would be collected by the vessel captain and crew.

If approved, URI may request minor modifications and extensions to the EFP throughout the study. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: June 19, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–15522 Filed 6–23–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0081]

Agency Information Collection Activities; Comment Request; School Climate Surveys (SCLS) Benchmark Study 2016

AGENCY: Institute of Education Sciences/ National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before August 24, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0081 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka, Kubzdela 202–502–7411.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: School Climate Surveys (SCLS) Benchmark Study 2016.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 358,649.

Total Estimated Number of Annual Burden Hours: 190,665.

Abstract: The School Climate Surveys (SCLS) are a suite of survey instruments being developed for schools, districts, and states by the U.S. Department of Education's (ED) National Center for Education Statistics (NCES). This national effort extends current activities that measure school climate, including the state-level efforts of the Safe and Supportive Schools (S3) grantees, which were awarded funds in 2010 by the ED's Office of Safe and Healthy Students (OSHS) to improve school climate. Through the SCLS, schools nationwide will have access to survey instruments and a survey platform that will allow for the collection and reporting of school climate data across stakeholders at the local level. The surveys can be used to produce school-, district-, and state-level scores on various indicators of school climate from the perspectives of students, teachers, noninstructional school staff and principals, and parents and guardians. This request is to conduct a national SCLS benchmark study, collecting data from a nationally representative sample of schools across the United States, to create a national comparison point for users of SCLS. A nationally representative sample of 500 schools serving students in grades 5–12 will be sampled to participate in the national benchmark study in spring 2016. The data collected from the sampled schools will be used to produce national school climate scores on the various topics covered by SCLS, which will be released in the updated SCLS platform and provide a basis for comparison between data collected by schools and school systems and the national school climate.

Dated: June 18, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer. Office of Management.

[FR Doc. 2015–15438 Filed 6–23–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–513–000]

Texas Gas Transmission, LLC; Notice of Application

Take notice that on June 5, 2015, Texas Gas Transmission, LLC (Texas Gas) filed an application with the Federal Energy Regulatory Commission pursuant to sections 7(c) of the Natural Gas Act (NGA) requesting authority to construct and operate the Northern Supply Access Project (Project). Specifically, Texas Gas requests authorization to: (i) Construct the new 23,877 hp Harrison Compressor Station in Hamilton County, Ohio; ii) install gas cooling facilities at the Dillsboro Compressor Station in Dearborn County, Indiana; (iii) install a new 9,688 hp gas turbine compressor and various piping modifications at the Bastrop Compressor Station in Morehouse Parish, Louisiana; and (iv) make certain yard and station piping modifications at existing compressor stations in Lawrence County, Indiana; Jeffersontown, Breckinridge and Webster Counties, Kentucky; Tipton County, Tennessee; and Coahoma County, Mississippi. The project is designed to provide an additional 384,000 MMBtu/d of north to south transportation capacity on Texas Gas's system for eight shippers while maintaining bi-directional flow capability on its system. The estimated cost of the Northern Supply Access Project is $149 million.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application should be directed to Kathy D. Fort, Manager, Certificates ad Tariffs, Texas Gas Transmission, LLC, 9 Greenway Plaza, Suite 2800, Houston, TX 77046, by phone at (713) 479–8033 or by email at *kathy.fort@bwpmlp.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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

Comment Date: 5:00 p.m. Eastern Time on July 8, 2015.

Dated: June 17, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15427 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–44–000]

Sage Grouse Energy Project, LLC (Complainant v. PacifiCorp (Respondent); Notice of Amended Complaint

Take notice that on June 16, 2015, Sage Grouse Energy Project LLC (Sage Grouse) filed a second answer in response to PacifiCorp's April 22, 2015 filed answer; thereby, Sage Grouse amended its original complaint filed on February 9, 2015, as more fully explained in its amendment. In addition, on June 17, 2015, Sage Grouse supplemented the June 16, 2015 filing with exhibits.

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 5 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 electronic 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 July 6, 2015.

Dated: June 17, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15429 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–1057–000.

Applicants: Destin Pipeline Company, L.L.C.

Description: Section 4(d) rate filing per 154.204: Asset Management Arrangements to be effective 6/13/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5046.

Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: RP15–1058–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Revise Evergreen Provision for Firm Services to be effective 7/12/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5074.

Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: RP15–1059–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Neg Rate Agmt Filing (Tenaska 44540) to be effective 6/12/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5078.

Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: RP15–1060–000.

Applicants: Tallgrass Interstate Gas Transmission, L.

Description: Section 4(d) rate filing per 154.204: Neg Rate 2015/06/15 Chesapeake to be effective 6/15/2015.

Filed Date: 6/12/15.

Accession Number: 20150612–5182.

Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: RP15–1061–000.

Applicants: Gulfstream Natural Gas System, L.L.C.

Description: Section 4(d) rate filing per 154.204: Capacity Release Timeline Cleanup to be effective 7/15/2015.

Filed Date: 6/15/15.

Accession Number: 20150615–5092.

Comments Due: 5 p.m. ET 6/29/15.

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: RP07–34–000.

Applicants: PANHANDLE JOINT PARTIES, Southwest Gas Storage Company, Panhandle Complainants, Panhandle Complainants v. Southwest Gas.

Description: Southwest Gas Storage Company submits its Semi-Annual Compliance Report, for the period May 1, 2014 through October 31, 2014, under RP07–34, et al.

Filed Date: 11/25/14.

Accession Number: 20141125–5393.

Comments Due: 5 p.m. ET 6/19/15.

Docket Numbers: RP07–541–000.

Applicants: Southwest Gas Storage Company.

Description: Southwest Gas Storage Company submits its Semi-Annual Compliance Report, for the period May 1, 2014 through October 31, 2014, under RP07–34, et al.

Filed Date: 11/25/14.

Accession Number: 20141125–5393.

Comments Due: 5 p.m. ET 6/19/15.

Docket Numbers: RP07–34–000.

Applicants: PANHANDLE JOINT PARTIES, Southwest Gas Storage Company, Panhandle Complainants, Panhandle Complainants v. Southwest Gas.

Description: Southwest Gas Storage Company submits its Semi-Annual Compliance Report, for the period November 1, 2014 through April 30, 2015, under RP07–34, et al.

Filed Date: 6/2/15.

Accession Number: 20150602–5191.

Comments Due: 5 p.m. ET 6/19/15.

Docket Numbers: RP07–541–000.

Applicants: Southwest Gas Storage Company.

Description: Southwest Gas Storage Company submits its Semi-Annual Compliance Report, for the period November 1, 2014 through April 30, 2015, under RP07–34, et al.

Filed Date: 6/2/15.

Accession Number: 20150602–5191.

Comments Due: 5 p.m. ET 6/19/15.

Docket Numbers: RP10–896–003.

Applicants: Granite State Gas Transmission, Inc.

Description: Petition of Granite State Gas Transmission, Inc. for Approval of Second Amended Settlement.

Filed Date: 6/11/15.

Accession Number: 20150611–5237.

Comments Due: 5 p.m. ET 6/22/15.

Docket Numbers: RP15–583–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Compliance filing per 154.501: Refund Report in Docket Nos. RP15–583, RP08–426 and RP10–1398.

Filed Date: 6/11/15

Accession Number: 20150611–5070.

Comments Due: 5 p.m. ET 6/23/15.

Docket Numbers: RP15–615–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Compliance filing per 154.501: Refund Report in Docket Nos. RP15–615, RP08–426 and RP10–1398.

Filed Date: 6/11/15.

Accession Number: 20150611–5073.

Comments Due: 5 p.m. ET 6/23/15.

Docket Numbers: RP01–382–025.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits for filing its annual report setting forth the Carlton Resolution buyout and surcharge dollars reimbursed to the Carlton Sourcers on their May Reservation invoices for the 2014–2015 heating season.

Filed Date: 6/1/15.

Accession Number: 20150601–5403.

Comments Due: 5 p.m. ET 6/19/15.

Docket Numbers: RP15–1041–000.

Applicants: Elba Express Company, L.L.C.

Description: 2015 Annual Cashout True-Up Report of Elba Express Company, L.L.C.

Filed Date: 6/1/15.
Accession Number: 20150601–5402.
Comments Due: 5 p.m. ET 6/19/15.
Docket Numbers: RP15–1052–001.
Applicants: Discovery Gas Transmission LLC.
Description: Compliance filing per 154.203: Substitute Order No. 801 Compliance filing (System Map Migration to Web site) to be effective 7/9/2015.
Filed Date: 6/15/15.
Accession Number: 20150615–5128.
Comments Due: 5 p.m. ET 6/29/15.
Docket Numbers: RP15–1053–001.
Applicants: Black Marlin Pipeline Company.
Description: Compliance filing per 154.203: Substitute Order No. 801 Compliance Filing (System Map Migration to Web site) to be effective 7/9/2015.
Filed Date: 6/15/15.
Accession Number: 20150615–5226.
Comments Due: 5 p.m. ET 6/29/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15486 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 308–007]

PacifiCorp Energy; Notice of Intent To Prepare a Draft and Final Environmental Assessment and Revised Procedural Schedule

On February 28, 2014, PacifiCorp Energy (PacifiCorp) filed an application for the continued operation of the 1.1-megawatt Wallowa Falls Hydroelectric Project (Wallowa Falls Project) No. 308. On February 10, 2015, PacifiCorp filed an updated application that included modifications to its proposed action. On March 6, 2015, the Commission issued a *Notice of Application Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions* (REA Notice). The REA notice included a procedural schedule that included preparation of a single Environmental Assessment (EA).

Based on the comments received in response to the REA notice, Commission staff has determined that its analysis of the proposed relicensing action will require preparation of a Draft and Final EA. A Draft EA will be issued and circulated for review by all interested parties. All comments filed on the Draft EA will be analyzed by staff and considered in the Final EA. Staff's conclusions and recommendations will be available for the Commission's consideration in reaching its final licensing decision.

The application will be processed according to the following revised procedural schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Draft EA	November 2015.
Comments on Draft EA due.	December 2015.
Modified terms and conditions due.	January 2016.
Commission issues Final EA.	April 2016.

Any questions regarding this notice may be directed to Matt Cutlip at (503) 552–2762, or by email at *matt.cutlip@ferc.gov.*

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15490 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–18–000]

Soldier Canyon Filter Plant; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On January 23, 2015, Soldier Canyon Filter Plant filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Soldier Canyon Micro Hydro Facility would have an installed capacity of 100 kilowatts (kW), and would be located along the existing 36-inch-diameter Soldier Canyon Pipeline at the Soldier Canyon Filter Plant. The project would be located near Fort Collins in Larimer County, Colorado.

Applicant Contact: Mr. Chris Harris, General Manager, 4424 Laporte Avenue, Fort Collins, CO 80521, Phone No. (970) 482–3143.

FERC Contact: Christopher Chaney, Phone No. (202) 502–6778, email: *christopher.chaney@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 140-square-foot buried powerhouse; (2) an approximately 30-foot-long, 16-inch-diameter intake pipe branching off the 36-inch-diameter Soldier Canyon Pipeline; (3) one 100-kilowatt turbine-generating unit; (4) an approximately 60-foot-long, 16-inch-diameter discharge pipe returning water to the 36-inch-diameter Soldier Canyon Pipeline; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 880 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity..	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit..	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts.	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA..	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD15–18) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15491 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14327–004]

Pershing County Water Conservation District, Nevada; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Surrender of License.

b. *Project No.:* 14327–004.

c. *Date Filed:* June 4, 2015.

d. *Licensee:* Pershing County Water Conservation District, Nevada.

e. *Name of Project:* Humboldt River Hydropower Project.

f. *Location:* The unconstructed project would be located at the U.S. Department of the Interior, Bureau of Reclamation's Rye Patch Dam, on the Humboldt River in Pershing County, Nevada. The project would occupy 0.25 acre of federal land.

g. *Filed Pursuant to:* 18 CFR 6.2.

h. *Licensee Contact:* Mr. Bennie Hodges, Manager, Pershing County Water Conservation District, P.O. Box 218, Lovelock, NV 89419, Telephone: (775) 273–2293, Email: *pcwcd@irrigation.lovelock.nv.us.*

i. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

j. Deadline for filing comments, interventions and protests is 30 days from the issuance date of this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your

name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14327–004.

k. Description of Project Facilities: The unconstructed project works would consist of (1) an 18-foot by 18-foot powerhouse to be located in an existing parking area immediately downstream of the dam on the west side of the spillway; (2) a new 750-kilowatt generator to be installed within the powerhouse and connected to a new Kaplan turbine via a driveshaft; (3) the Kaplan turbine which would be installed outside of the powerhouse and connected to an existing 48-inch-diameter steel discharge pipe; (4) a second existing 48-inch-diameter steel pipe that would be used to bypass flow past the turbine; (5) a new 24.9-kilovolt, 9,360-foot-long primary transmission line; and (6) appurtenant facilities.

l. Description of Proceeding: On June 4, 2015, Pershing County Water Conservation District, Nevada filed a request to surrender their license for the unconstructed project stating that due to the current drought in the western United States, the project is not feasible at this time.

m. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

q. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15493 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–97–000.

Applicants: Route 66 Wind Power, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Route 66 Wind Power, LLC.

Filed Date: 6/17/15.

Accession Number: 20150617–5235.

Comments Due: 5 p.m. ET 7/8/15.

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

Docket Numbers: ER15–1937–000.

Applicants: PJM Interconnection, L.L.C., Old Dominion Electric Cooperative.

Description: § 205(d) Rate Filing: Second Revised Service Agreement No. 3746—NITSA between PJM and ODEC to be effective 6/1/2015.

Filed Date: 6/17/15.

Accession Number: 20150617–5248.

Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1938–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA Service Agreement No. 4183; Queue No. Z2–105 to be effective 10/31/2014.

Filed Date: 6/17/15.

Accession Number: 20150617–5266.

Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1939–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3050 Sunwind Energy Group GIA to be effective 6/3/2015.

Filed Date: 6/17/15.

Accession Number: 20150617–5267.

Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1940–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Service Agreement No. 4184; Queue No. Z2–106 to be effective 10/31/2014.

Filed Date: 6/17/15.

Accession Number: 20150617–5268.

Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1941–000.

Applicants: Barclays Bank PLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Barclays Bank PLC.

Filed Date: 6/17/15.

Accession Number: 20150617–5294.
Comments Due: 5 p.m. ET 7/8/15.
Docket Numbers: ER15–1942–000.
Applicants: Barclays Capital Energy Inc.
Description: Notice of Cancellation of Market Based Rate Tariff of Barclays Capital Energy Inc.
Filed Date: 6/17/15.
Accession Number: 20150617–5295.
Comments Due: 5 p.m. ET 7/8/15.

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

Docket Numbers: ES15–33–000.
Applicants: Northern Indiana Public Service Company.
Description: Supplement to June 10, 2015 Application for Authorization to Issue Short-Term Debt of Northern Indiana Public Service Company.
Filed Date: 6/17/15.
Accession Number: 20150617–5272.
Comments Due: 5 p.m. ET 7/1/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15487 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–515–000]

Florida Gas Transmission Company LLC; Notice of Request Under Blanket Authorization

Take notice that on June 9, 2015, Florida Gas Transmission Company, LLC (FGT), 1300 Main Street, Houston, Texas 77002 filed a prior notice request pursuant to sections 157.205, 157.208(b), and 157.216(b) of the Commission's regulations under the Natural Gas Act for authorization to relocate several sections of 8-inch and 10-inch diameter laterals (totaling 6.8 miles) due to highway construction and replace them with approximately 4.3 miles of 12-inch pipe. The project is located south of Gandy Blvd., in Pinellas County, Florida (referred to by FGT as the 12-Inch St. Petersburg Lateral Relocation Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Stephen T. Veatch, Senior Director, Certificates, Florida Gas Transmission Company, LLC, PO Box 4967, Houston, Texas 77210–4967, by telephone at (713) 989–2024 or by email: *Stephen.Veatch@energytransfer.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15488 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF11–4–003]

Western Area Power Administration; Notice of Filing

Take notice that on April 12, 2013, Western Area Power Administration submitted tariff filing per 300.10: OATT 2012 12 4 to be effective 1/1/2013.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 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 July 8, 2015.

Dated: June 17, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15428 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–13–000]

Cameron LNG, LLC, Notice of Intent to Prepare an Environmental Assessment for the Planned Cameron Lng Expansion Project, and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Cameron LNG Expansion Project (Project) involving construction and operation of facilities by Cameron LNG, LLC (Cameron) in Cameron and Calcasieu Parishes, Louisiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before July 20, 2015.

If you sent comments on this project to the Commission before the opening of this docket on February 24, 2015, you will need to file those comments in Docket No. PF15–13–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF15–13–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Planned Project

Cameron plans to construct and operate facilities entirely within its existing liquefied natural gas (LNG) terminal. The Project would increase liquefaction capacity by about 9.97 million tons per year and storage of LNG by about 160,000 cubic meters. According to Cameron, it is currently fully subscribed for the original liquefaction volume and anticipates that affiliates of its partners would subscribe for the capacity of this project as well.

The Project would consist of the following facilities:

- Two additional liquefaction trains (Trains 4 and 5) with a maximum LNG production capacity of 4.985 million tons per year;
- A fifth 160,000 cubic meter full containment LNG storage tank to increase the total LNG storage capacity to 800,000 cubic meters;
- A condensate product storage tank; and
- Associated utilities and infrastructure.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the planned facilities would be entirely within the existing footprint of Cameron's liquefaction terminal.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it authorizes a project. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- water resources;
- threatened and endangered species;
- cultural resources;
- air quality and noise;
- public safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

Once Cameron files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF15–13). Be sure you have selected an appropriate date range. 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. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15494 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–68–000]

Midcontinent Independent System Operator, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On June 18, 2015, the Commission issued an order in Docket No. EL15–68–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Midcontinent Independent System Operator Inc.'s *pro forma* Facilities Construction Agreement, Generator Interconnection Agreement, and Multi-Party Facilities Construction Agreement. *Midcontinent Indep. Sys. Operator, Inc.,* 151 FERC ¶ 61,220 (2015).

The refund effective date in Docket No. EL15–68–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15489 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–62–002]

Independent Power Producers of New York, Inc. v. New York Independent System Operator, Inc.; Notice of Compliance Filing

Take notice that on June 17, 2015, New York Independent System Operator, Inc. submits compliance report regarding buyer-side market mitigation measures, pursuant to the Commission March 19, 2015 Order.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 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 July 8, 2015.

Dated: June 18, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15492 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

[1] *Independent Power Producers of New York, Inc.* v. *New York Independent System Operator, Inc.,* 150 FERC ¶ 61,139 (2015) (March 19 Order).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10–1437–002.
Applicants: Tampa Electric Company.
Description: Second Supplement to June 30, 2014 Triennial Market Power Update of Tampa Electric Company.
Filed Date: 6/16/15.
Accession Number: 20150616–5351.
Comments Due: 5 p.m. ET 7/7/15.

Docket Numbers: ER10–2721–005.
Applicants: El Paso Electric Company.
Description: Supplement to April 15, 2015 Non-Material Change in Status Filing of El Paso Electric Company.
Filed Date: 6/17/15.
Accession Number: 20150617–5187.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER12–1770–002.
Applicants: DES Wholesale, LLC.
Description: Notice of Change in Status of DES Wholesale, LLC.
Filed Date: 6/16/15.
Accession Number: 20150616–5369.
Comments Due: 5 p.m. ET 7/7/15.

Docket Numbers: ER15–1534–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Report Filing: 2015–06–17_SA 2772 Refund Report of ATC–MGE CFA to be effective N/A.
Filed Date: 6/17/15.
Accession Number: 20150617–5103.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1930–000.
Applicants: Duquesne Keystone LLC.
Description: Duquesne Keystone LLC submits tariff filing per 35.15: notice of cancellation to be effective 6/30/2015.
Filed Date: 6/16/15.
Accession Number: 20150616–5302.
Comment Date: 5 p.m. ET 7/7/15.

Docket Numbers: ER15–1931–000.
Applicants: Duquesne Conemaugh LLC.
Description: Duquesne Conemaugh LLC submits tariff filing per 35.15: notice of cancellation to be effective 6/30/2015.
Filed Date: 06/16/2015.
Accession Number: 20150616–5307.
Comment Date: 5 p.m. ET 7/7/15.

Docket Numbers: ER15–1932–000.
Applicants: PJM Interconnection, L.L.C., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc.
Description: § 205(d) Rate Filing: Duke submits revisions to H22–A revising the calculations to be effective 6/1/2015.
Filed Date: 6/17/15.
Accession Number: 20150617–5152.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1933–000.
Applicants: Florida Power & Light Company.
Description: § 205(d) Rate Filing: FPL Request for Authority to Sell Ancillary Services at Market-Based Rates to be effective 8/16/2015.
Filed Date: 6/17/15.
Accession Number: 20150617–5156.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1934–000.
Applicants: Northeast Energy Associates, A Limited Partnership.
Description: Petition of Northeast Energy Associates, A Limited Partnership for Waiver of the Transmission, Markets and Services Tariff of ISO New England, Inc.
Filed Date: 6/17/15.
Accession Number: 20150617–5196.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1935–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: EDF Trading MDUSA to be effective 6/11/2015.
Filed Date: 6/17/15.
Accession Number: 20150617–5217.
Comments Due: 5 p.m. ET 7/8/15.

Docket Numbers: ER15–1936–000.
Applicants: PacifiCorp.
Description: Tariff Cancellation: Termination of Tri-State Construction Agmt—Deaver to be effective 8/16/2015.
Filed Date: 6/17/15.
Accession Number: 20150617–5219.
Comments Due: 5 p.m. ET 7/8/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 17, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–15430 Filed 6–23–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9929–62–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by the Center for Biological Diversity in the United States District Court for the District of Columbia: *Center for Biological Diversity* v. *McCarthy,* Civil Action No. 15–cv–00268 TFH (D. DC). On February 24, 2015, Plaintiff filed a complaint. Plaintiff alleged that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA''), failed to perform a mandatory duty to promulgate a federal implementation plan (''FIP'') addressing certain requirements of the Clean Air Act to implement the 2006 fine particulate matter (''$PM_{2.5}$'') National Ambient Air Quality Standard (''NAAQS'') for Puerto Rico, Iowa, and Washington. The proposed consent decree would establish deadlines for EPA to take certain specified actions.

DATES: Written comments on the proposed partial consent decree must be received by *July 24, 2015.*

ADDRESSES: Submit your comments, identified by Docket ID number OGC–2015–0416, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Karen Bianco, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–3298; fax number: (202) 564–5603; email address: *bianco.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by the Center for Biological Diversity seeking to compel the Administrator to take actions under CAA section 110(c)(1). The February 24, 2015 complaint alleged that EPA has a mandatory duty to promulgate a FIP to satisfy the requirements of Clean Air Act Section 110, 42 U.S.C. 7410(a)(2)(A)–(C); (D)(i)(II) (Prevention of Significant Deterioration prong only); (E)–(H); and (J)–(M) to implement the 2006 $PM_{2.5}$ NAAQS. Under the terms of the proposed consent decree, EPA would agree to take certain specified actions no later than April 1, 2016, for Puerto Rico and no later than September 30, 2016, for Iowa for the 2006 $PM_{2.5}$ NAAQS. In addition, the proposed consent decree outlines the procedure for the Plaintiff to request costs of litigation, including attorney fees. See the proposed consent decree for the specific details.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this proposed consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by OGC–2015–0416) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be

marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 17, 2015.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2015–15523 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0385; FRL–9929–21]

Registration Review; Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this document, EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open registration review dockets for pyrazon, trypsin modulating oostatic factor, and xanthine and oxypurinol. These pesticides do not currently have any actively registered pesticide products and are not, therefore, scheduled for review under the registration review program.

DATES: Comments must be received on or before August 24, 2015.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The person identified as a contact in the table in Unit III.A. Also include the docket ID number listed in the table in Unit III.A. for the pesticide of interest.

For general information contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide

Act (FIFRA) (7 U.S.C. 136a(g)) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration–that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE 1—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.	Contact and contact information
Acequinocyl, 7621	EPA–HQ–OPP–2015–0203	Margaret Hathaway, *hathaway.margaret@epa.gov*, (703) 305–5076.
Aspergillus flavus, 6008	EPA–HQ–OPP–2015–0281	Michael Glikes, *glikes.michael@epa.gov*, (703) 305–6231.
n-Butyl Mercaptan, 6055	EPA–HQ–OPP–2015–0262	Menyon Adams, *adams.menyon@epa.gov*, (703) 347–8496.
Chlorine Dioxide (includes Sodium Chlorite), 4023.	EPA–HQ–OPP–2015–0267	Stephen Savage, *savage.stephen@epa.gov*, (703) 347–0345.
Cycloate, 2125	EPA–HQ–OPP–2015–0288	Matthew Manupella, *manupella.matthew@epa.gov*, (703) 347–0411.
Diclosulam, 7249	EPA–HQ–OPP–2015–0285	Matthew Manupella, *manupella.matthew@epa.gov*, (703) 347–0411.
Furfural, 2305	EPA–HQ–OPP–2014–0764	Jolene Trujillo *trujillo.jolene@epa.gov*, (303) 312–6579.
Mancozeb, 0643	EPA–HQ–OPP–2015–0291	Steve Snyderman, *snyderman.steven@epa.gov*, (703) 347–0249.
Metiram, 0644	EPA–HQ–OPP–2015–0290	Brittany Pruitt, *pruitt.brittany@epa.gov*, (703) 347–0289.
Propanil, 0226	EPA–HQ–OPP–2015–0052	Joel Wolf, *wolf.joel@epa.gov*, (703) 347–0228.

EPA is also announcing that it will not be opening dockets for pyrazon, trypsin modulating oostatic factor, and xanthine and oxypurinol because these pesticides are not included in any products currently registered under FIFRA section 3.

The Agency will take separate actions to cancel any remaining FIFRA section 24(c) Special Local Needs registrations (7 U.S.C. 136v) with this active ingredient and to propose revocation of any affected tolerances that are not supported for import purposes only.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status
- A list of current product registrations and registrants
- **Federal Register** notices regarding any pending registration actions
- **Federal Register** notices regarding current or pending tolerances
- Risk assessments
- Bibliographies concerning current registrations
- Summaries of incident data
- Any other pertinent data or information

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's Web site at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.* Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review.*

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as a diographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous

review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 17, 2015.

Neil G. Anderson,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–15526 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0389; FRL–9929–01]

Pesticides; Risk Management Approach To Identifying Options for Protecting the Monarch Butterfly; Notice of Availability and Public Comment Opportunity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of a document for public review and comment that describes the Agency's management approach for understanding and identifying protections for the monarch butterfly. This document is the start of an approach for monarch butterfly protection and weed management which will depend upon (i) input from a diverse group of stakeholders to identify and integrate information with respect to influences on the population dynamics of the monarch butterfly and the milkweed plant; and, (ii) cooperation and collaboration from these diverse stakeholders to identify activities that will balance weed management needs across varied landscapes with conservation of the milkweed plant. EPA is soliciting public comment on which potential action or a combination of actions would be the most effective in reducing the impacts of herbicides on the monarch butterfly.

DATES: Comments must be received on or before July 24, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0389, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Khue Nguyen, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0248; email address: *nguyen.khue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What Action is the Agency Taking?

EPA is taking public comment on a document entitled, *Risk Management Approach to Identifying Options for Protecting the Monarch Butterfly,* a copy of which is available in the docket at *http://www.regulations.gov* under docket ID number EPA–HQ–OPP–2015–0389. The document identifies the types of information that EPA believes may be important to have in order to identify appropriate actions to take under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to protect monarch butterflies (including milkweed resources) while also enabling pesticide users to meet important weed management needs. EPA is initiating efforts focused specifically on the monarch butterfly for several reasons.

First, the U.S. has been engaged in an effort with Canada and Mexico through the Canada/Mexico/U.S. Trilateral Committee for Wildlife and Ecosystem Conservation and Management, where the three partner nations have agreed to make natural resource conservation a priority. Consistent with its objective to conserve and manage natural resources across North America, the committee has recognized the monarch butterfly as an emblematic species shared by the three countries and renewed their collaborative effort to protect the species and its required resources.

Secondly, in addition to the efforts of the Trilateral Committee, President Obama issued a memorandum on pollinator protection entitled, *Creating a Federal Strategy to Promote the Health of Honey Bees and other Pollinators.* The memorandum highlights the importance of the monarch butterfly and establishes a task force of Federal agencies to develop a strategy to conserve pollinators and the monarch butterfly in particular. The memorandum states that the task force is to develop a strategy that looks to developing partnerships with external stakeholders such as state, tribal and local governments, farmers, corporations, and non-governmental organizations to achieve the goal of protecting and conserving the monarch butterfly and its habitat.

Finally, in February 2014, EPA's Office of Pesticide Programs (OPP) received a petition from the Natural Resources Defense Council (NRDC)

asking EPA to take actions to reduce the use of the herbicide glyphosate because NRDC believes that the widespread use of glyphosate has impacted the monarch butterfly by reducing the presence of the milkweed. While EPA has denied NRDC's petition, EPA concludes that its ongoing efforts to protect bees, in conjunction now with this effort to protect the monarch butterfly, are in line with the objectives of the NRDC petition.

In addition, together with several non-governmental organizations, various agencies within the Federal government have been working collaboratively with the Monarch Joint Venture to develop and implement measures to protect monarch butterflies and their migration. The approach and objectives outlined in *Risk Management Approach to Identifying Options for Protecting the Monarch Butterfly* will support and complement the actions and objectives of the Trilateral Committee and the Presidential Memorandum on Pollinator Health.

EPA is soliciting public comment on which potential action or a combination of actions would be the most effective in reducing the impacts of herbicides on the monarch butterfly. The agency is also requesting that any additional measures not discussed here be identified.

Please note that the approach discussed in *Risk Management Approach to Identifying Options for Protecting the Monarch Butterfly* is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this guidance document is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not applicable to a specific pesticide or situation.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 16, 2015.

Jack Housenger,

Director, Office of Pesticide Programs.

[FR Doc. 2015–15405 Filed 6–23–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0228 and 3060–0931]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 24, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0228.

Title: Section 80.59, Compulsory Ship Inspections and Ship Inspection Certificates, FCC Forms 806, 824, 827 and 829.

Form Numbers: FCC Forms 806, 824, 827 and 829.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 1,310 respondents; 1,310 responses.

Estimated Time per Response: 0.084 hours (5 minutes)-4 hours per response.

Frequency of Response: On occasion, annual and every five year reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4, 303, 309, 332 and 362 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,445 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The requirements contained in 47 CFR 80.59 of the Commission's rules are necessary to implement the provisions of section 362(b) of the Communications Act of 934, as amended, which require the Commission to inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act.

Further, section 80.59(d) states that the Commission may, upon a finding

that the public interest would be served, grant a waiver of the annual inspection required by section 362(b) of the Communications Act of 1934, for a period of not more than 90 days for the sole purpose of enabling the United States vessel to complete its voyage and proceed to a port in the United States where an inspection can be held. An information application must be submitted by the ship's owner, operator or authorized agent. The application must be submitted to the Commission's District Director or Resident Agent in charge of the FCC office nearest the port of arrival at least three days before the ship's arrival. The application must provide specific information that is in rule section 80.59.

Additionally, the Communications Act requires the inspection of small passenger ships at least once every five years.

The Safety Convention (to which the United States is a signatory) also requires an annual inspection.

The Commission allows FCC-licensed technicians to conduct these inspections. FCC-licensed technicians certify that the ship has passed an inspection and issue a safety certificate. These safety certificates, FCC Forms 806, 824, 827 and 829 indicate that the vessel complies with the Communications Act of 1934, as amended and the Safety Convention. These technicians are required to provide a summary of the results of the inspection in the ship's log that the inspection was satisfactory.

Inspection certificates issued in accordance with the Safety Convention must be posted in a prominent and accessible place on the ship (third party disclosure requirement).

OMB Control Number: 3060–0931.

Title: Section 80.103, Digital Selective Calling (DSC) Operating Procedures—Maritime Mobile Identity (MMSI).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities and Federal Government.

Number of Respondents and Responses: 40,000 respondents; 40,000 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this Information collection is in 47 U.S.C. 154, 303, 307(e), 309 and 332 of the Communications Act of 1934, as amended. The reporting requirement is contained in international agreements and ITU–R M.541.9.

Total Annual Burden: 10,000 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: Yes. The FCC maintains a system of records notice (SORN), FCC/WTB–1, ''Wireless Services Licensing Records'' that covers the collection, purpose(s), storage, safeguards, and disposal of the PII that marine VHF radio licensees maintain under 47 CFR 80.103.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to all owners of Marine VHF radios with Digital Selective Calling (DSC) capability in this collection. The licensee records will be publicly available and routinely used in accordance with subsection (b) of the Privacy Act of 1974. FRN numbers and material which is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection. Any personally identifiable information (PII) that individual applicants provide is covered by a system of records, FCC/WTB–1, ''Wireless Services Licensing Records'', and these and all other records may be disclosed pursuant to the Routine Uses as stated in the SORN.

Needs and Uses: The information collected is necessary to require owners of marine VHF radios with Digital Selective Calling (DSC) capability to register information such as the name, address, type of vessel with a private entity issuing marine mobile service identities (MMSI). The information would be used by search and rescue personnel to identify vessels in distress and to select the proper rescue units and search methods.

The requirement to collect this information is contained in international agreements with the U.S. Coast Guard and private sector entities that issue MMSI's.

The information is used by private entities to maintain a database used to provide information about the vessel owner in distress using marine VHF radios with DSC capability. If the data were not collected, the U.S. Coast Guard would not have access to this information which would increase the time and effort needed to complete a search and rescue operation.

Marlene H. Dortch,

Secretary, Office of the Secretary, Federal Communications Commission.

[FR Doc. 2015–15496 Filed 6–23–15; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-CECANF–2015–06; Docket No. 2015–0006; Sequence No. 6]

Commission To Eliminate Child Abuse and Neglect Fatalities; Announcement of Meeting

AGENCY: Commission To Eliminate Child Abuse and Neglect Fatalities, GSA.

ACTION: Meeting Notice.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, will hold a meeting open to the public by teleconference on Wednesday, July 1, 2015 in Washington, DC.

DATES: The meeting will be held on Wednesday, July 1, 2015, from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time (EDT). Submit comments identified by ''Notice-CECANF–2015–06,'' by either of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for ''Notice-CECANF–2015–06.'' Select the link ''Comment Now'' that corresponds with ''Notice-CECANF–2015–06.'' Follow the instructions provided on the screen. Please include your name, organization name (if any), and ''Notice-CECANF–2015–06'' on your attached document.

- *Mail:* U.S. General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

Instructions: Please submit comments only and cite ''Notice-CECANF–2015–06'' in all correspondence related to this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Visit the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/* or contact Patricia Brincefield, Communications Director, at 202–818–9596, U.S. General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

SUPPLEMENTARY INFORMATION:

Background: CECANF was established to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

Agenda: This meeting on data accountability and interoperability will be hosted by CECANF in conjunction with the House Committee on Ways and Means Subcommittee on Human Resources and the Senate Finance Committee. Invited participants will include senior federal agency staff with program and data expertise on federal data sets identified by CECANF as critical to its charge.

Attendance at the Meeting: Individuals interested in participating by teleconference must register in advance. To register, please go to *http://meetingtomorrow.com/webcast/cecanfdc* and follow the prompts. Once you register, you will receive a confirmation email with the teleconference number. Detailed meeting minutes will be posted within 90 days of the meeting. Members of the public will not have the opportunity to ask questions or otherwise participate in the meeting.

However, members of the public wishing to comment should follow the steps detailed under the heading **DATES** in this publication or contact us via the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/contact-us/.*

Dated: June 18, 2015.

Amy Templeman,

Acting Executive Director.

[FR Doc. 2015–15513 Filed 6–23–15; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[Notice–CSE–2015–02; Docket No. 2015–0002; Sequence No. 16]

Notice of the General Services Administration's Labor-Management Relations Council Meeting

AGENCY: Office of Human Resources Management (OHRM), General Services Administration (GSA).

ACTION: Notice of meeting.

SUMMARY: The General Services Administration's Labor-Management Relations Council (GLMRC), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App., and Executive Order 13522, plans to hold one meeting that is open to the public.

DATES: The meeting will be held on Tuesday, July 14, 2015, from 9:30 a.m. to 4:30 p.m., Eastern Standard Time (EST).

ADDRESSES: The meeting will be held in the General Services Administration's Conference Center, 1800 F Street NW., Washington, DC 20405. This site is accessible to individuals with disabilities.

FOR FURTHER INFORMATION CONTACT: Ms. Temple L. Wilson, GLMRC Designated Federal Officer (DFO), OHRM, General Services Administration, at telephone 202–969–7110, or email at *gmlrc@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The GLMRC is a forum for managers and the exclusive representatives of GSA employees, which are the two national labor unions. In this forum, managers and the Unions discuss Government operations to promote satisfactory labor relations and improve the productivity and effectiveness of GSA. The GLMRC serves as a complement to the existing collective bargaining process, and allows managers and the Unions to collaborate in continuing to deliver the highest quality services to the public. The Council discusses workplace challenges and problems, and recommends solutions that foster a more productive and cost-effective service to the taxpayer, through improving job satisfaction and employees' working conditions.

Agenda

The purpose of the meeting is for the GLMRC to discuss workforce planning and development challenges within GSA. The topics to be discussed include the make-up of GSA's current workforce and potential solutions for succession planning, workforce retention strategies, improved diversity, and for targeted training to address skill gaps where necessary. Additionally, the GLMRC will discuss GSA's annual metrics report on monitoring improvements in areas such as agency mission accomplishment, labor-management relationships, and employee satisfaction. The report is to be submitted to the National Council on Federal Labor-Management Relations on or before Thursday, December 31, 2015.

Meeting Access

The meeting is open to the public. The meeting will be held in the General Services Administration's Conference Center, 1800 F Street NW., Washington, DC 20405. This site is accessible to individuals with disabilities. In order to gain entry into the Federal building where the meeting is being held, public attendees who are Federal employees should bring their Federal employee identification cards, and members of the general public should bring their driver's license or other government-issued identification.

Availability of Materials for the Meeting

Please see the GLRMC Web site: *http://www.gsa.gov/portal/content/225831* for any materials available in advance of the meeting and for meeting minutes that will be made available after the meeting. Detailed meeting minutes will be posted within 90 days of the meeting.

Public Comments

The public is invited to submit written comments for the meeting until 5:00 p.m. Eastern Standard Time (EST), on the Monday prior to the meeting, by either of the following methods: *Electronic or Paper Statements:* Submit electronic statements to Ms. Temple Wilson, Designated Federal Officer, at *temple.wilson@gsa.gov;* or send paper statements in triplicate to Ms. Wilson at 1800 F Street NW., Suite 7003A, Washington, DC 20405. In general, public comments will be posted on the GLMRC Web site. All comments, including attachments and other supporting materials received, are part of the public record and subject to public disclosure.

Any comments submitted in connection with the GLMRC meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

Dated: June 18, 2015.

Wade Hannum,

OHRM Director, Office of Human Resources Management, Office of HR Strategy and Services, Center for Talent Engagement (COE4), General Services Administration.

[FR Doc. 2015–15511 Filed 6–23–15; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0177]; [Docket No. 2015–0076; Sequence 27]

Submission to OMB for Review; Federal Acquisition Regulation; Reporting Executive Compensation and First-Tier Subcontract Awards

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request for a new information collection requirement for Reporting Executive Compensation and First-tier Subcontract Awards. A notice soliciting public comments on the information collection was published in the **Federal Register** at 79 FR 60468, on October 7, 2014. No comments were received.

DATES: Submit comments on or before July 24, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards, by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0177. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., Washington, DC 20405.

- *Instructions:* Please submit comments only and cite ''Information Collection 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards,'' in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, Office of Government-wide Policy, contact via telephone 703–605–2868 or email to *mahruba.uddowla@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Funding Accountability and Transparency Act (''Transparency Act''), Public Law 109–282, as amended by section 6202 of Public Law 110–252, was enacted to reduce ''wasteful and unnecessary spending'' by requiring that OMB establish a free, public, online database containing full disclosure of all Federal contract award information for awards of $25,000 or more.

DoD, GSA, and NASA published an interim rule for public comment at 75 FR 39414, on July 8, 2010, to implement the Transparency Act reporting requirements. The rule requires the insertion of FAR clause 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards, in solicitations and contracts (including commercial item contracts and commercially available off-the-shelf (COTS) item contracts) of $25,000 or more.

The clause at 52.204–10 requires, unless otherwise directed by the contracting officer, for first-tier subcontracts valued at $25,000 or more, prime contractors to report first-tier subcontract award data (*e.g.,* name, amount, address, etc.). If the contractor in the previous tax year had gross income, from all sources, under $300,000, the contractor is exempt from the requirement to report first-tier subcontractor awards. If a first-tier subcontractor in the previous tax year had gross income from all sources under $300,000, the contractor does not need to report awards to that first-tier subcontractor. Contractors will provide these subcontract reports to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) (*http://www.fsrs.gov*). DoD, GSA, and NASA note that there is pre-population of some data in FSRS from other Government systems.

The clause at 52.204–10 also requires a contractor to report in the System for Award Management (SAM) database at *https://www.sam.gov,* the names and total compensation of each of its five most highly compensated executives for the contractor's preceding completed fiscal year. Contractors and first-tier subcontractors are not required to report the total compensation information required by the rule, unless—

(i) In the contractor or subcontractor's preceding fiscal year, the contractor or subcontractor received—

(l) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements; and

(2) $25,000,000 or more in annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)

B. Annual Reporting Burden

The total annual burden associated with the reporting requirements of FAR 52.204–10 is estimated to be $33,230,972.

1. *Reporting first-tier subcontract award information.* The FY13 Federal Procurement Data System (FPDS) data collected for new contract actions valued at $25,000 or greater, indicated that there were 155,292 contractors with unique DUNS numbers. It is estimated that based on the exemptions in the rule (*e.g.,* contractors in the previous tax year with less than $300,000 in gross income do not have to report), seventy-five percent of the contractors with actions valued at $25,000 or greater would be subject to the reporting requirements, which would be 116,469 contractors. The burden to report the subcontractor award information (*e.g.,* name, amount, address, etc.) under FAR 52.204–10 is estimated to average 2 hours per response for a prime contractor and approximately three first-tier subcontractors per prime contractor. We estimate the total annual public cost burden for these elements to be $*30,747,816* based on the following:

Respondents: 116,469.

Responses per respondent: 3.

Total annual responses: 349,407.

Preparation hours per response: 2.

Total response burden hours: 698,814.

Average hourly wages: ($33.00 + 36.25% overhead. Rounded to nearest dollar): $45.00

Estimated cost to the public: $30,747,816

2. *Reporting executive compensation.* There were 367,875 active registrants in SAM as of September 17, 2014. Of the 367,875 total active registrants, 360,000 were screened out by two questions supporting the rule's requirements, *i.e.,* didn't have 80% or more of their annual gross revenue in U.S. Federal contracts, grants, and/or cooperative agreements and didn't make more than $25 million in annual gross revenue, or did have 80% or $25 million from Federal contracts/grants/cooperative agreements, but the public already had access to the information. It is estimated that it would require those 360,000

registrants 0.10 hours per response, for a total of 36,000 response hours.

A total of 7,875 SAM registrants would be required to enter actual values for their top five most highly compensated executives. It is estimated that it would require these 7,875 registrants 2.5 hours to provide the information required, for a total of 19,688 response hours.

Therefore, it is estimated that the total population of respondents is 367,875, and the total estimated response hours is 55,688, resulting in a weighted average of 0.15 hours per respondent for executive compensation reporting.

The Councils estimate the total annual public cost burden for this element to be $2,483,156 based on the following:

Respondents: 367,875.

Responses per respondent: 1.

Total annual responses: 367,875.

Preparation hours per response: 0.15.

Total response burden hours: 55,181.

Average hourly wages: ($33.06+36.25%overhead): $45.00

Estimated cost to the public: $2,483,156.

Based on the above calculations, DoD, GSA, and NASA estimate the total annual burden associated with reporting requirements of FAR 52.204–10 to be $33,323,972. The reporting burden includes the time for reviewing instructions, and reporting the data. It does not cover the time required to conduct research or the time to obtain the information for the data elements.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards, in all correspondence.

Dated: June 18, 2015.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–15516 Filed 6–23–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0048; Docket 2015–0076; Sequence 18]

Federal Acquisition Regulation; Information Collection; Authorized Negotiators

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Authorized Negotiators.

DATES: Submit comments on or before August 24, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0048, Authorized Negotiators, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0048, Authorized Negotiators''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0048, Authorized Negotiators'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0048, Authorized Negotiators.

Instructions: Please submit comments only and cite Information Collection 9000–0048, Authorized Negotiators, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–501–0650 or via email to *Edward.loeb@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Per FAR 52.215–1(c)(2)(iv), firms offering supplies or services to the Government under negotiated solicitations must provide the names, titles, and telephone numbers of authorized negotiators to assure that discussions are held with authorized individuals. The information collected is referred to before contract negotiations and it becomes part of the official contract file.

C. Annual Reporting Burden

Respondents: 68,000.

Responses Per Respondent: 8.

Total Responses: 544,000.

Hours Per Response: .017.

Total Burden Hours: 9248.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0048, Authorized Negotiator, in all correspondence.

Dated: June 18, 2015.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–15508 Filed 6–23–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: ORR Requirements for Refugee Cash Assistance; and Refugee Medical Assistance (45 CFR part 400).

OMB No.: 0970–0036.

Description: As required by section 412(e) of the Immigration and Nationality Act, the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is requesting the information from Form ORR–6 to determine the effectiveness of the State cash and medical assistance, child welfare, social services, and targeted assistance programs. State-by-State Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) utilization rates derived from Form ORR–6 are calculated for use in formulating program initiatives, priorities, standards, budget requests, and assistance policies. ORR regulations require that State Refugee Resettlement and Wilson-Fish agencies, and local and Tribal governments complete Form ORR–6 in order to participate in the above-mentioned programs.

Respondents: State Refugee Resettlement and Wilson-Fish Agencies, local, and Tribal governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–6	50	3	3.88	582

Estimated Total Annual Burden Hours: 582.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*. Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–15502 Filed 6–23–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Effect of Age on Heart, Lung, Blood, and Sleep Disorders.

Date: June 24, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 18, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15442 Filed 6–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; National Institute of General Medical Sciences Review of F12 Applications: Postdoctoral Research Associate (PRAT) Program.

Date: July 22, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.*Contact Person:* Robert Horowits, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12H, Bethesda, MD 20892–6200, 301–594–6904, *horowitr@mail.nih.gov*.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Trauma & Burn Research Center Review.

Date: July 23, 2015.

Time: 9:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12P, Bethesda, MD 20892–6200, 301–594–3907, *pikbr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 18, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15444 Filed 6–23–15; 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 Conference and Meetings: Office of Research Infrastructure Programs (ORIP).

Date: July 14, 2015.

Time: 4 p.m. to 5 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: Cathleen L Cooper, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, 301–443–4512, *cooperc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PA14–072: Small Business: Therapeutics for Infectious Diseases.

Date: July 20, 2015.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Program Project: The Biophysics Collaborative Access Team.

Date: July 20–22, 2015.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel—Skeletal Muscle Physiology.

Date: July 21–22, 2015.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).*Contact Person:* Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Vascular and Hematology A.

Date: July 21–22, 2015.

Time: 10:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel—Drug Discovery for the Nervous System.

Date: July 21, 2015.

Time: 1 p.m. to 4 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: 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: Center for Scientific Review Special Emphasis Panel, RFA–OD–15–129: Mobilizing Research: A Research Resource to Enhance Mhealth Research (U2C).

Date: July 24, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Peter J Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@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: June 19, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15604 Filed 6–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Tracking the Life Course.

Date: July 31, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 18, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15443 Filed 6–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2568–15; DHS Docket No. USCIS–2015–0003]

RIN 1615–ZB39

Designation of Nepal for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) has designated Nepal for Temporary Protected Status (TPS) for a period of 18 months, effective *June 24, 2015* through December 24, 2016. Under section 244(b)(1)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1254a(b)(1)(B), the Secretary is authorized to designate a foreign state (or any part thereof) for TPS upon finding that the foreign state has experienced an earthquake resulting in a substantial, but temporary, disruption of living conditions.

This designation allows eligible Nepalese nationals (and aliens having no nationality who last habitually resided in Nepal) who have continuously resided in the United States since June 24, 2015, and have been continuously physically present in the United States since *June 24, 2015* to be granted TPS. This Notice also describes the other eligibility criteria applicants must meet.

Individuals who believe they may qualify for TPS under this designation may apply within the 180-day registration period that begins on *June 24, 2015* and ends on December 21, 2015. They may also apply for Employment Authorization Documents (EAD) and for travel authorization. Through this Notice, DHS also sets forth the procedures for nationals of Nepal (or aliens having no nationality who last habitually resided in Nepal) to apply for TPS, EADs, and travel authorization with U.S. Citizenship and Immigration Services (USCIS).

DATES: This designation of Nepal for TPS is effective on *June 24, 2015* and will remain in effect through December 24, 2016. The 180-day registration period for eligible individuals to submit TPS applications begins *June 24, 2015,* and will remain in effect through December 21, 2015.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about this designation of Nepal for TPS by selecting ''TPS Designated Country: Nepal'' from the menu on the left of the TPS Web page.
- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work and to obtain EADs, so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(2).
- When the Secretary terminates a country's TPS designation through a separate **Federal Register** notice, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

What authority does the Secretary have to designate Nepal for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary,

after consultation with appropriate U.S. Government (Government) agencies, to designate a foreign state (or part thereof) for TPS if the Secretary finds that certain country conditions exist.[1] The Secretary can designate a foreign state for TPS if the Secretary determines that one or more of three bases exist. One basis is if the Secretary finds that ''. . . (i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected, (ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and (iii) the foreign state officially has requested designation for TPS. . . .'' INA section 244(b)(1)(B), 8 U.S.C. 1254a(b)(1)(B).

Following the designation of a foreign state for TPS, the Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in that state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A). Applicants must demonstrate that they satisfy all eligibility criteria, including that they have been ''continuously physically present'' in the United States since the effective date of the designation, which is either the date of the **Federal Register** Notice announcing the designation or such later date as the Secretary may determine, and that they have ''continuously resided'' in the United States since such date as the Secretary may designate. *See* INA sections 244(a)(1)(A), (b)(2)(A), (c)(1)(A)(i–ii); 8 U.S.C. 1254a(a)(1)(A), (b)(2)(A), (c)(1)(A)(i–ii).

Why is the Secretary designating Nepal for TPS through December 24, 2016?

On April 25, 2015, a magnitude 7.8 earthquake struck Nepal. The earthquake's epicenter was less than 50 miles from the capital city, Kathmandu, and Pokhara, another major city in central Nepal. Approximately 25 to 33 percent of Nepal's population (over 8 million people) in 39 of Nepal's 75 districts has been affected by the earthquake. There have been numerous aftershocks since the April 25 earthquake, with the strongest striking on May 12 and measuring magnitude 7.3. The May 12 aftershock contributed to additional casualties and resulted in the collapse of some buildings that had suffered damage in the April 25 earthquake. The earthquake and its aftershocks have caused over 8,700 fatalities and more than 20,000 injuries, displaced millions of people, and resulted in destruction or significant damage to over 750,000 homes. The UN estimates 2.8 million people are in need of humanitarian assistance.

The earthquake severely damaged much of the country's infrastructure in the affected areas, including the capital of Kathmandu. Earthquake-related rubble litters urban population centers, and many roads have been destroyed or rendered impassable. Infrastructure damage from the earthquake has jeopardized food security, with over 1.4 million people estimated to be in need of food assistance. Displaced persons have varying access to basic services, such as shelter, water, sanitation, and hygiene and many continue to live outdoors. Medical care was also affected by the earthquake, with over 25 hospitals damaged and more than 900 village health facilities rendered nonfunctional. At least 950,000 children in Nepal are at risk of being unable to return to school or are learning in temporary structures because their schools have been destroyed, damaged.

The institutional capacity of the Nepalese government to respond to the immediate effects of the earthquake alone is low.

The April 25 earthquake and its aftershocks caused enormous damage in Nepal'srural areas that are difficult to access because of the mountainous terrain and limited numbers of undamaged roads. With the 2015 monsoon season starting this month, remote areas will face additional threats, including landslides and flooding, and providing aid to them may become more difficult.

Based upon review of these conditions and after consultation with appropriate Government agencies, the Secretary has determined that:

- There has been an earthquake, flood, drought, epidemic, or other environmental disaster in Nepal resulting in a substantial, but temporary, disruption of living conditions in the area affected. *See* INA section 244(b)(1)(B)(i), 8 U.S.C. 1254a(b)(1)(B)(i);
- Nepal is unable, temporarily, to handle adequately the return of aliens who are nationals of Nepal. *See* INA section 244(b)(1)(B)(ii), 8 U.S.C. 1254a(b)(1)(B)(ii);
- Nepal has officially requested designation for TPS. *See* INA section 244(b)(1)(B)(iii), 8 U.S.C. 1254a(b)(1)(B)(iii);
- The designation of Nepal for TPS will be for an 18-month period from *June 24, 2015* through December 24, 2016. *See* INA section 244(b)(2), 8 U.S.C. 1254a(b)(2);
- The date by which applicants for TPS under the designation of Nepal must demonstrate that they have continuously resided in the United States is June 24, 2015. *See* INA section 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii);
- The date by which applicants for TPS under the designation of Nepal must demonstrate that they have been continuously physically present in the United States is *June 24, 2015,* the effective date of this designation of Nepal for TPS. INA sections 244(b)(2)(A), (c)(1)(A)(i), 8 U.S.C. 1254a(b)(2)(A), (c)(1)(A)(i); and
- An estimated 10,000 to 25,000 nationals of Nepal (and persons without nationality who last habitually resided in Nepal) are (or are likely to become) eligible for TPS under this designation. INA section 244(b)(1), 8 U.S.C. 1254a(b)(1). This estimate is based on the total number of Nepalese nationals believed to be in the United States in a nonimmigrant status or without lawful immigration status.

Notice of the Designation of Nepal for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, after consultation with the appropriate Government agencies, I designate Nepal for TPS under INA section 244(b)(1)(B), 8 U.S.C. 1254a(b)(1)(B), for a period of 18 months from June 24, 2015 through December 24, 2016.

Jeh Charles Johnson,

Secretary.

Required Application Forms and Application Fees To Register for TPS

To register for TPS for Nepal, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821) with the form fee; and

2. Application for Employment Authorization (Form I–765).

- For administrative purposes, an applicant must submit an Application for Employment Authorization (Form I–765) even if no EAD is requested.
- If you want an EAD you must pay the Application for Employment Authorization (Form I–765) fee only if you are age 14 through 65.
- No fee for Application for Employment Authorization (Form I–

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

765) is required if you are not requesting an EAD with an initial TPS application. Additionally, no fee is required if you are requesting an EAD and you are under the age of 14 or over the age of 65.

You must submit both completed application forms together. If you are unable to pay the required fees, you may apply for a waiver for these application fees and/or the biometrics services fee described below by completing a Request for Fee Waiver (Form I–912), or submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for Application for Temporary Protected Status (Form I–821), Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may request a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov*. If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Re-Filing a TPS Application After Receiving a Denial of a Fee Waiver Request

If you request a fee waiver when filing your TPS and EAD application forms and your request is denied, you may refile your application packet with the correct fees before the filing deadline of December 21, 2015. If you attempt to submit your application with a fee waiver request before the initial filing deadline, but you receive your application back with the USCIS fee waiver denial, and there are fewer than 45 days before the filing deadline (or the deadline has passed), you may still refile your application within the 45-day period after the date on the USCIS fee waiver denial notice. You must include the correct fees or file a new fee waiver request. Your application will not be rejected even if the deadline has passed, provided it is mailed within those 45 days and all other required information for the application is included. Please be aware that if you re-file your TPS application packet with a new fee waiver request after the deadline based on this guidance and that new fee waiver request is denied, you cannot re-file again. **Note:** Alternatively, you may pay the TPS application fee and biometrics fee (if age 14 or older) but wait to request an EAD and pay the EAD application fee after USCIS grants your TPS application.

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If you:	Then mail your application to:
Would like to send your application by U.S. Postal Service.	USCIS, P.O. Box 7555, Chicago, IL 60680.
Would like to send your application by non-U.S. Postal Service courier.	Attn: Nepal TPS, 131 S. Dearborn 3rd Floor, Chicago, IL 60603.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, please mail your application to the appropriate mailing address in Table 1. After you submit your EAD application and receive a USCIS receipt number, please send an email to the Service Center handling your application. The email should include the receipt number and state that you submitted a request for an EAD based on an IJ/BIA grant of TPS. This will aid in the verification of your grant of TPS and processing of your EAD application, as USCIS may not have received records of your grant of TPS by either the IJ or the BIA. To obtain additional information, including the email address of the appropriate Service Center, you may go to the USCIS TPS Web page at *http://www.uscis.gov/tps*.

E-Filing

You cannot electronically file your application packet when applying for initial registration for TPS. Please mail your application packet to the mailing address listed in Table 1.

Supporting Documents

What type of basic supporting documentation must I submit?

To meet the basic eligibility requirements for TPS, you must submit evidence that you:

- Are a national of Nepal or an alien having no nationality who last habitually resided in Nepal. Such documents may include a copy of your passport if available, other documentation issued by the Government of Nepal showing your nationality (*e.g.,* national identity card, official travel documentation issued by the Government of Nepal), and/or your birth certificate with English translation accompanied by photo identification. USCIS will also consider certain forms of secondary evidence supporting your Nepalese nationality. If the evidence presented is insufficient for USCIS to make a determination as to your nationality, USCIS may request additional evidence. If you cannot provide a passport, birth certificate with photo identification, or a national identity document with your photo or fingerprint, you must submit an affidavit showing proof of your unsuccessful efforts to obtain such documents and affirming that you are a national of Nepal. However, please be aware that an interview with an immigration officer will be required if you do not present any documentary proof of identity or nationality or if USCIS otherwise requests a personal appearance. *See* 8 CFR 103.2(b)(9), 244.9(a)(1);
- Have continuously resided in the United States since June 24, 2015. *See* INA section 244(c)(1)(A)(ii); 8 U.S.C. 1254a(c)(1)(A)(ii); 8 CFR 244.9(a)(2); and
- Have been continuously physically present in the United States since June 24, 2015, the effective date of the designation of Nepal. *See* INA sections 244(b)(2)(A), (c)(1)(A)(i);8 U.S.C. 1254a(b)(2)(A), (c)(1)(A)(i).

You must also submit two color passport-style photographs of yourself. The filing instructions on the Application for Temporary Protected Status (Form I–821) list all the documents needed to establish basic eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying for TPS on the USCIS Web site at *www.uscis.gov/tps* under ''TPS Designated Country: Nepal.''

Do I need to submit additional supporting documentation?

If one or more of the questions listed in Part 4, Question 2 of the Application for Temporary Protected Status (Form I–821) applies to you, then you must submit an explanation on a separate sheet(s) of paper and/or additional documentation. Depending on the nature of the question(s) you are addressing, additional documentation alone may suffice, but usually a written explanation will also be needed.

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To obtain case status information about your TPS application, including the status of a request for an EAD, you can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). If your Form I–765 Application for Employment Authorization has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''List of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I–9Central.* Employers are required to verify the identity and employment authorization of all new employees by using the Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). You may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions; the receipt for the application for replacement of a lost, stolen, or damaged employment authorization document is acceptable. A receipt for the application for an initial or renewal employment authorization is not an acceptable receipt. An EAD is an acceptable document under ''List A.'' Employers may not reject a document based on a future expiration date.

Can my employer require that I produce any other documentation to prove my current TPS status, such as proof of my Nepalese citizenship or proof that I have registered for TPS?

No. When completing the Employment Eligibility Verification (Form I–9), including re-verifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Nepalese citizenship or proof of TPS registration when completing the Employment Eligibility Verification (Form I–9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that are unexpired on their face, employers should accept such EADs as valid ''List A'' documents so long as the EADs reasonably appear to be genuine and to relate to the employee. Refer to the ''Note to All Employees'' section for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you because of your citizenship status, immigration status, or national origin.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I–9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email at *I–9Central@dhs.gov.* Calls are accepted in English and many other languages. Employees or applicants may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Worker Information Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt described in the Employment Eligibility Verification (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Employment Eligibility Verification (Form I–9) differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). An employee who believes he or she was discriminated against by an employer in the E-Verify process based on citizenship status,

immigration status, or national origin, may contact OSC's Worker Information Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal, State, and local government agencies establish their own rules and guidelines when granting certain benefits. Each State may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your EAD that has a valid expiration date;

(2) A copy of your Notice of Action (Form I–797C) showing approval for TPS, if you receive one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2015–15576 Filed 6–23–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0051]

Agency Information Collection Activities: Monthly Report on Naturalization Papers, Form N–4, Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: 60-Day Notice.

SUMMARY: DHS, USCIS invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 24, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0051 in the subject box, the agency name and Docket ID USCIS–2005–0032. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2005–0032;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments:

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2005–0032 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Monthly Report on Naturalization Papers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form N–4; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or local Government. Section 339 of the Immigration and Nationality Act (Act) requires that the clerk of each court that administers the oath of allegiance notify USCIS of all persons to whom the oath of allegiance for naturalization is administered, within 30 days after the close of the month in which the oath was administered. This form provides a format listing the number of those persons to USCIS and provides accountability for the delivery of the certificates of naturalization as required under that section of law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form N–4 is 160 and the estimated hour burden per response is .50 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 960 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $400.

Dated: June 18, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–15436 Filed 6–23–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–32]

30-Day Notice of Proposed Information Collection: Voucher Management System (VMS)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 24, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800)877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 14, 2015 at 80 FR 20009.

A. Overview of Information Collection

Title of Information Collection: Voucher Management System (VMS).

OMB Approval Number: 2577–New.

Type of Request: New collection.

Form Numbers: Financial Forms: HUD–52672, 52681, 52681–B, 52663 and 52673. Originally, the HCV Financials were included in OMB Collection 2577–0169. Regulatory References 982.157 and 982.158. PHAs that administer the HCV program are required to maintain financial reports in accordance with accepted accounting standards in order to permit timely and effective audits. The HUD–52672 (Supporting Data for Annual Contributions Estimates Section 8 Housing Assistance Payments Program) and 52681 (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program) financial records identify the amount of annual contributions that are received and disbursed by the PHA and are used by PHAs that administer the five-year Mainstream Program, MOD Rehab, and Single Room Occupancy. Form HUD–52663 (Suggested Format for Requisition for Partial Payment of Annual Contributions Section 8 Housing Assistance Payments Program) provides for PHAs to indicate requested funds and monthly amounts. Form HUD–52673 (Estimate of Total Required Annual Contributions Section 8 Housing Assistance Payments Program) allows PHAs to estimate their total required annual contributions. The required financial statements are similar to those prepared by any responsible business or organization.

The automated form HUD–52681–B (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program Supplemental Reporting Form) is entered by the PHA into the Voucher Management System (VMS) on a monthly basis during each calendar year to track leasing and HAP expenses by voucher category, as well as data concerning fraud recovery, Family Self-Sufficiency escrow accounts, PHA-held equity, etc. The inclusion, change, and deletion of the fields mentioned below will improve the allocation of funds and allow the PHAs and the Department to realize a more complete picture of the PHAs' resources and program activities, promote financial accountability, and improve the PHAs' ability to provide assistance to as many households as possible while maximizing budgets. In addition, the fields will be crucial to the identification of actual or incipient financial problems that will ultimately affect funding for program participants. The automated form HUD–52681–B is also utilized by the same programs as the manual forms.

Description of the need for the information and proposed use: The Voucher Management System (VMS) supports the information management needs of the Housing Choice Voucher (HCV) Program and management functions performed by the Financial Management Center (FMC) and the Financial Management Division (FMD) of the Office of Public and Indian Housing and the Real Estate Assessment Center (PIH–REAC). This system's primary purpose is to provide a central system to monitor and manage the Public Housing Agency (PHAs) use of vouchers and expenditure of program funds, and is the base for budget formulation and budget implementation. The VMS collects PHAs' actual cost data that enables HUD to perform and control cash management activities; the costs reported are the base for quarterly HAP and Fee obligations and advance

disbursements in a timely manner, and reconciliations for overages and shortages on a quarterly basis.

Respondents (*i.e.* affected public): Public Housing Authorities.

Estimated Number of Respondents: 3,110.

Estimated Number of Responses: 28,960.

Frequency of Response: monthly.

Average Hours per Response: 1.5.

Total Estimated Burdens: 57,540.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	3,110	12	28,960	1.5	57,540	$30	$1,726,200

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 19, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15535 Filed 6–23–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–33]

Notice of Emergency Approval Submission of Proposed Information Collection to OMB; Emergency Comment Request Pay for Success Demonstration Application

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

DATES: *Comments Due Date:* July 1, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna Guido at *Anna_Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Pay for Success Demonstration Application.

OMB Approval Number: 2506-New.

Type of Request New collection.

Form Number: SF 424, HUD SF 424 SUPP (if applicable), HUD–2993 (if applicable), HUD–96011 (if applicable), HUD–2880, SF–LLL.

Description of the need for the information and proposed use: The information to be collected will be used to rate applications, to determine eligibility for the PFS Demonstration and to establish grant amounts. Applicants, which must be public or private nonprofit organizations, will respond to narrative prompts to demonstrate their experience and expertise in PFS financing and to describe their intended program design, both for PFS Demonstration activities, such as conducting a feasibility assessment and structuring a PFS transaction, as well as deal implementation activities, such as administering a PSH intervention, tracking outcomes, and making success payments.

Respondents (describe): Public or private nonprofit organizations.

Estimated Number of Respondents: 9 applicants.

Estimated Number of Responses: 9 applicants.

Frequency of Response: 1 response per year.

Average Hours per Response: 22.21 hours.

Total Estimated Burdens: $194.68.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 19, 2015.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15534 Filed 6–23–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–31]

30-Day Notice of Proposed Information Collection: Rent Reform Demonstration (Task Order 2)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 24, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 14, 2015 at 80 FR 20008.

A. Overview of Information Collection

Title of Information Collection: Rent Reform Demonstration.

OMB Approval Number: 2528–0306.

Type of Request: Revision of existing collection.

Description of the need for the information and proposed use: The Department is conducting this study under contract with MDRC and its subcontractors (Branch Associates, The Bronner Group, Quadel Consulting Corporation, and the Urban Institute). The project is a random assignment trial of an alternative rent system. Families will be randomly assigned to participate either in the new/alternative rent system or to continue in the current system. For voucher holders, outcomes of the alternative system are hypothesized to be increases in earnings, employment and job retention, among others. Random assignment will limit the extent to which selection bias drives observed results. The demonstration will document the progress of a group of housing voucher holders, who will be drawn from current residents. The intent is to gain an understanding of the impact of the alternative rent system on the families as well as the administrative burden on Public Housing Agencies (PHAs). Four PHAs currently participating in the Moving to Work (MtW) Demonstration are participating in the demonstration:

(1) Lexington Housing Authority (LHA), Lexington, Kentucky;

(2) Louisville Metro Housing Authority (LMHA), Louisville, Kentucky;

(3) San Antonio Housing Authority (SAHA), San Antonio, Texas; and

(4) District of Columbia Housing Authority (DCHA), Washington, DC.

Data collection will include the families that are part of the treatment and control groups, as well as PHA staff. Data for this evaluation will be gathered through a variety of methods including informational interviews and discussions, direct observation, and analysis of administrative records. The work covered under this information request is for data collection proposed under the first of two required OMB submissions of the Task Order 2 of the Rent Reform Demonstration.

Respondents: 156.

This includes:

- Public Housing Authority Staff: up to 44 (*i.e.,* assuming up to 11 staff at up to 4 PHAs).
- Families with housing vouchers participating in the Rent Reform Demonstration, up to 80.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Study Participant Interviews and/or Focus Groups.	80 participants (20 participants * 4 sites).	Once	One	90 minutes, on average (1.5 hours).	120 (80 * 1.5)	[1] 8.13	$487.80 (40 employed sample members * $8.13 * 1.5 hours).
PHA Staff Interviews.	32 staff (8 staff [2] * 4 sites).	Once	One	90 minutes, on average (or 1.5 hours).	48 hours (32 * 1.50).	[3] 24.33	$1,167.84 (32 staff * $24.33 * 1.5 hours).
Housing Authority Database Extraction Activities by PHA staff.	4 staff (1 staff * 4 sites).	8 responses in the covered period (monthly through January 2015, then annually through 2018).	Four in 2015, two in 2016, one in 2017, one in 2018.	60 minutes, on average (or 1 hour).	16 hours (4 staff * 1 hour * 4 responses in 2015).	[4] 33.58	$537.28 (4 staff * $33.58 * 1 hour * 4 responses in 2015).
Cost Study Data Collection Activities with PHA staff.	8 staff (2 staff * 4 sites).	Three times over the covered period.	One	120 minutes, on average (or 2 hours).	16 hours (8 staff * 2 hours).	33.58	$537.28 (8 staff * $33.58 * 2 hours).

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Interviews to understand implementation of new rent model. Includes meetings with PHA staff for technical assistance purposes.	32 staff (8 staff * 4 sites).	Four times	Up to four times	30–60 minutes (or .5 to 1 hours) Incorporated into technical assistance, monitoring visits and follow-up.	128 hours (4 one-hour meetings * 32 staff).	24.33	$2,983 (32 staff * $24.33 * 1 hour * 4 meetings).
Total	156	.....	.....	.....	328	.....	$5,844.44.

[1] Households participating in the Rent Reform Demonstration will range widely in employment position and earnings. We have estimated the hourly wage at the expected prevailing minimum wage, which is $7.25 per hour in Kentucky and Texas. The hourly minimum wage in the District of Columbia is expected to be $10.50 by Q3 of 2015. (Source: District of Columbia Department of Employment Services, *http://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/DC%20Minimum%20Wage%20Increase%20-%20DC%20Register%20Public%20Notice.pdf.*) Accordingly, we assume an hourly rate across all sites of $8.13 that represents an average of these two rates, weighted by the pledged sample at each site. (2,000 pledged participants in Washington, DC and 5,400 pledged in the remaining sites.) Moreover, we expect about 50 percent of the participants to be employed at the time of study entry. A recent report by the Center on Budget and Policy Priorities, some 55 percent of non-elderly, non-disabled households receiving voucher assistance reported earned income in 2010. The typical (median) annual earnings for these families were $15,600, only slightly more than the pay from full-time, year-round minimum-wage work. (*http://www.cbpp.org/cms/?fa=view&id=3634).* Based on this, we assumed 50% of tenants would be working at the federal minimum wage.

[2] Number of PHA staff interviews could increase if the housing agency deploys more staff to work on activities related to Rent Reform implementation.

[3] For program staff participating in interviews, the estimate uses the median hourly wages of selected occupations (classified by Standard Occupational Classification (SOC) codes) was sourced from the Occupational Employment Statistics from the U.S. Department of Labor's Bureau of Labor Statistics. Potentially relevant occupations and their median hourly wages are:

Occupation	SOC code	Median hourly wage rate
Community and Social Service Specialist	21–1099	$19.26
Social/community Service Manager	11–9151	29.40

[4] For program staff supporting data extraction activities, the estimate uses the median hourly wages of selected relevant occupations in a manner similar to the above. A standard wage assumption of $33.58 was created by averaging median hourly wage rates for these occupations:

Source: Occupational Employment Statistics, accessed online March 20, 2015 at *http://www.bls.gov/oes/current/oes_stru.htm.* To estimate cost burden to program staff respondents, we use an average of the occupations listed, or $24.33/hr.

Occupation	SOC code	Median hourly wage rate
Database Administrator	15–1141	$37.75
Social/community Service Manager	11–9151	29.40

Source: Occupational Employment Statistics, accessed online March 22, 2015 at *http://www.bls.gov/oes/current/oes_stru.htm.*

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 17, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15536 Filed 6–23–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L16100000.DP0000. LXSSH0930000.15XL1109AF.HAG 15–0169]

Notice of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) San Juan Islands National Monument Advisory Committee (MAC) will meet as indicated below.

DATES: The MAC will meet on Wednesday, July 8, 2015, from 10:30 a.m.–5:30 p.m. at the Grace Episcopal Church, 70 Sunrise Rd., Lopez, WA 98261. There will be two public comment periods: 10:45–11:15 and 4:45–5:30. This meeting will focus on recreation, visual resource management, special designations such as Areas of Environmental Concern and lands with wilderness characteristics, and trails and travel management. The BLM resource lead will be present to share the breadth of considerations and opportunities in the generation of alternatives for separate areas, or zones and a discussion of public engagement

to assist in defining reccommended recreation resources. The committee will also review legal constraints and definitions to the formulation of alternatives.

FOR FURTHER INFORMATION CONTACT: Marcia deChadenèdes, San Juan Islands National Monument Manager, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261, (360) 468–3051, or *mdechade@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 twelve member San Juan Islands MAC was chartered to provide information and advice regarding the development of the San Juan Islands National Monument's Resource Management Plan. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. Planned agenda items include training on the Federal Advisory Committee Act, advisory committee procedures, the resource management plan process, MAC goal setting, and a collaborative project on public outreach. At each meeting, members of the public will have the opportunity to make comments to the MAC during a public comment period. All advisory committee meetings are open to the public. Persons wishing to make comments during the public comment period should register in person with the BLM preceding that meeting day's comment period, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the MAC at San Juan Islands National Monument, Attn. MAC, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261. The BLM appreciates all comments.

Jeffrey A. Rose,

Spokane District Manager.

[FR Doc. 2015–15483 Filed 6–23–15; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Suellyn Rader Blymyer, individually and in her capacity as the Personal Representative of the Estate of Lyle J. Rader, and Uptrail Group, LLC,* No. 2:13–cv–01555 JCC, was lodged with the United States District Court for the Western District of Washington on June 10, 2015.

This proposed Consent Decree concerns a complaint filed by the United States against Suellyn Rader Blymyer, individually and in her capacity as the Personal Representative of the Estate of Lyle J. Rader, and Uptrail Group, LLC, (''Defendants''), pursuant to 33 U.S.C. 1311, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Kent E. Hanson, Senior Attorney, United States Department of Justice, Environment and Natural Resources Division, Post Office Box 7611, Washington, DC 20044 and refer to *United States* v. *Rader Blymyer, et al.,* DJ #90–5–1–1–19398.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Western District of Washington, United States Courthouse, 700 Stewart Street, Suite 2310, Seattle, WA 98101. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2015–15418 Filed 6–23–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Work Opportunity Tax Credit and Welfare-to-Work Tax Credit

ACTION: Notice.

SUMMARY: On June 30, 2015, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Work Opportunity Tax Credit and Welfare-to-Work Tax Credit,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201502-1205-006* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit information collection. This submission includes five program forms: (1) a reporting form, ETA–9058; (2) two processing forms, ETA–9061 English and Spanish versions and ETA–9062; (3) and two administrative forms, ETA–9063 and ETA–9065. A State Workforce Agency (SWA) prepares Form ETA–9058 to report information on processing WOTC certification requests

by target groups to the ETA. An employer uses Form ETA–9061 or ETA–9062 together with Form IRS–8850 to request certification for new hires. A SWA uses information from the two forms to verify target group eligibility and process the employer's requests. A SWA uses Form ETA–9063 to issue a final certification to an eligible employer or its representative and ETA Form 9065 in an internal quarterly administrative audit.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0371.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 2, 2015 (80 FR 11231).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by July 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0371. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Work Opportunity Tax Credit and Welfare-to-Work Tax Credit.

OMB Control Number: 1205–0371.

Affected Public: Individuals or Households; State, Local, and Tribal Governments; and Private Sector—businesses or other for profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 990,052.

Total Estimated Number of Responses: 2,420,624.

Total Estimated Annual Time Burden: 847,445 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 17, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–15469 Filed 6–23–15; 8:45 am]

BILLING CODE 4510–FP–P

NATIONAL CREDIT UNION ADMINISTRATION

RIN 3133–AE16

Minority Depository Institution Preservation Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Interpretive Ruling and Policy Statement 13–1.

SUMMARY: The NCUA Board is issuing a final Interpretive Ruling and Policy Statement to establish a Minority Depository Institution Preservation Program for federally insured credit unions.

DATES: This final Interpretive Ruling and Policy Statement is effective July 24, 2015.

FOR FURTHER INFORMATION CONTACT: Wendy A. Angus, Acting Director, Office of Minority and Women Inclusion, at (703) 518–1650; or Cynthia Vaughn, Diversity Outreach Program Analyst, Office of Minority and Women Inclusion, at (703) 518–1650.

SUPPLEMENTARY INFORMATION:

I. Background

In 1989, Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) [1] in response to the failure of the Federal Savings and Loan Insurance Corporation (FSLIC), which insured the deposits of insolvent savings & loan institutions. Section 308 of FIRREA established goals for preserving and promoting minority depository institutions.[2] When enacted, FIRREA § 308 applied only to the Office of Thrift Supervision (OTS) and Federal Deposit Insurance Corporation (FDIC), successor to FSLIC.[3] Those agencies developed various initiatives, such as training, technical assistance and educational programs, aimed at preserving federally insured banks and savings institutions that meet FIRREA's definition of a minority depository institution (MDI).[4]

In 2010, Congress enacted the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank Act).[5] Section 367(4)(A) of the Dodd Frank Act amended FIRREA § 308 to require the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (Fed) to take steps to preserve existing MDIs and encourage the establishment of new ones.[6] In addition, Dodd Frank Act § 367(4)(B) requires these agencies, along with FDIC, to each submit an annual report to Congress describing actions it has taken to carry out FIRREA § 308.[7]

In 2013, the NCUA Board proposed an Interpretive Ruling and Policy Statement 13–1 (proposed IRPS) to establish a Minority Depository Institution Preservation Program (Program) to encourage the preservation of MDIs.[8] As proposed, the MDI program would be administered by NCUA's Office of Minority and Women Inclusion (OMWI) and would consist of outreach efforts, various forms of technical assistance and educational opportunities to benefit eligible credit unions.

[1] Public Law 101–73, 103 Stat. 183 (Aug. 9, 1989).

[2] *Id.* Title III, § 308, 103 Stat. 353 note re ''Preserving Minority Ownership of Minority Financial Institutions,'' 12 U.S.C. 1463 note.

[3] Id. § 1463 note (a). OCC and the Fed also initiated MDI programs to comply with the spirit of FIRREA § 308, even though neither was originally required to do so. OTS became part of OCC on July 21, 2011. OCC now administers the OTS MDI Program.

[4] 12 U.S.C. 1463 note (b).

[5] Public Law 111–203, 124 Stat. 1376 (July 21, 2010); 12 U.S.C. 5301 *et seq.*

[6] 12 U.S.C. 1463 note (a).

[7] *Id.* § 1463 note (c).

[8] 78 FR 46374 (July 31, 2013).

NCUA received a total of nine comments on the proposed IRPS—eight from credit union trade associations and one from a community advocacy group. Seven commenters expressly supported the proposal; none opposed it.

II. Summary of Comments on Proposed IRPS

1. ''Minority Depository Institution'' Definition

Three commenters recommended defining MDIs by minority representation solely among current or potential members, without considering minority representation among credit union management officials. Two commenters believe extending the definition beyond minority representation among the membership would exceed the statutory mandate, and questioned whether including management officials within the scope of minority representation is necessary or would undermine the Program's goals. Another commenter opposed extending the minority representation requirement to management officials, contending that, if it were to encompass credit union staff, it would be burdensome for nearly one-half of the nation's federally insured credit unions that operate with five or fewer employees. This commenter also opposed requiring minority representation among members of the board of directors, supervisory and credit committee members because they are volunteers elected from and by the membership, and who should have the education, experience, and knowledge to manage a credit union regardless of minority status.

In contrast, a commenter applauded NCUA for measuring minority representation among these officials to ensure that credit union leadership reflects the diversity of the communities and members an MDI serves. In addition, the same commenter wanted to limit the MDI definition to current members only, contending that having potential members who reside in an area having a mostly minority population is no assurance that an MDI would actually serve and invest in consumers of color within that community. Finally, the commenter suggested that minority representation should also encompass persons that identify as multi-racial/multi-ethnic, estimated at 9 million Americans by the U.S. Census Bureau.

In the final Interpretive Ruling and Policy Statement 13–1 (final IRPS), the NCUA Board retains the proposed MDI definition with three significant modifications to ensure complete conformity with the statutory MDI definition of a mutual institution. Under that definition, a credit union qualifies as an MDI when ''the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.'' [9] (Hereinafter, when minority representation is required to be ''predominant'' or to consist of a ''majority,'' *i.e.,* greater than 50 percent in either case, it will be referred to as ''>50%'').

First, the proposed MDI definition combined both current and ''eligible potential'' credit union members to assess minority representation among a credit union's ''account holders.'' Recognizing that a potential member does not hold a credit union account nor enjoy the rights and benefits of membership, the final IRPS limits to *current* members the assessment of >50% minority representation among credit union ''account holders.''

Second, as several commenters contended, the proposed MDI definition assessed minority representation not only among a credit union's board of directors (BOD) as required, but more generally among its ''current management officials,'' consisting of members of the supervisory and credit committees and of the senior executive staff.[10] Despite the NCUA Board's wish to emphasize the importance of minority representation within the leadership ranks of MDIs, the final IRPS limits to the BOD exclusively the assessment of >50% minority representation, consistent with the letter of the applicable statutory definition.

Third, the final IRPS clarifies that the MDI criterion requiring the community of a would-be MDI to be ''predominantly minority'' is not an alternative criterion for credit unions unable to meet the MDI criteria requiring >50% minority representation within its membership and on its BOD; it is an additional MDI criterion in and of itself.[11] To assess whether the community of a would-be MDI is ''predominantly minority,'' the final IRPS designates a credit union's community according to its charter. To make this assessment, the final IRPS also permits credit unions to rely on the same methods and supporting data the proposed IRPS prescribed for use by credit unions to self-certify as an MDI (*e.g.,* U.S. Census and Home Mortgage Disclosure Act data).[12]

In addition to the above modifications, the MDI definition in the final IRPS counts a person of multiple ethnicities who falls into at least one of the four minority categories designated by law,[13] (or is multi-racial as defined in Table 1) as a single minority individual for purposes of minority representation.

2. Documentation To Support MDI Designation

In order to receive the MDI designation, one commenter advocated requiring the majority of a credit union's members' deposits and/or loan products to be held by racial minorities. While striving to maximize flexibility and the options to determine and support an MDI designation, the NCUA Board is concerned that it would be too burdensome and restrictive to identify the race and/or ethnicity of all members with deposits and/or loan products. The final IRPS therefore does not adopt this suggestion as an MDI criterion.

One commenter recommended that NCUA clarify which U.S. Census demographic data to rely upon to measure minority representation among members for purposes of MDI determination. The final IRPS clarifies that U.S. Census data includes the American Fact Finder's most recent census population data (*e.g.,* 2010) for a particular geographic area, such as within members' zip codes or census tracts; and that minority composition [14] by census tracts, according to U.S. Census population data, can be found on the U.S. Census Bureau and the Federal Financial Institutions Examination Council (FFIEC) Web sites.

One commenter suggested providing a portal on NCUA's Web site for credit unions to access the sources of data relevant to self-certifying as an MDI,

[9] 12 U.S.C. 1463 note (b)(1)(C).

[10] *E.g.,* Chief executive officer, assistant chief executive officer, chief financial officer and branch managers. 78 FR 46374, 46375 (July 31, 2013)

[11] 12 U.S.C. 1463 note (b)(1)(C). In contrast to NCUA, the fact that FDIC oversees publicly-owned, privately-owned and mutual institutions may account for its policy permitting an institution that is unable to meet the 51 percent minority ownership criterion to instead rely on two of the mutual MDI >50% criteria, yielding a hybrid definition: ''In addition to the institutions that meet the [51 percent] ownership test, for purposes of this Policy Statement, institutions will be considered [MDIs] if a majority of the [BOD] is minority *and* the community that the institution serves is predominantly minority.'' 67 FR 18 618, 18620 (April 16, 2002). *See also* 67 FR 77, 79 (January 2, 2002).

[12] 78 FR at 46376 and n. 14. In many cases the methods and data that establish >50% minority representation among a credit union's membership also will establish >50% minority representation within the community it services. The Board acknowledges this redundancy as necessary to conform this third criterion to the letter of the statutory MDI definition.

[13] 12 U.S.C. 1463 note (b)(2).

[14] The minority composition represents the percentage of minorities divided by the entire referred population (*e.g.,* total membership or within a geographic area such as a census tract or a Metropolitan Statistical Area).

such as links to U.S. Census and Home Mortgage Disclosure Act (HMDA) data. NCUA currently provides links to access U.S. Census and FFIEC data on OMWI's Web page. To identify the ethnicity of its mortgage applicants, a credit union may rely on the home mortgage data it submits to comply with HMDA.

One commenter opposed the notion of collecting data by any method that relies on members voluntarily identifying themselves as a minority, for two reasons. First, the practice may conflict with anti-discrimination laws; and second, maintaining the collected ethnicity data may expose credit unions to criticism that the practice is intrusive, and to the risk of legal action. The final IRPS permits collection of volunteered ethnicity data as an option, but not a requirement, for credit unions to determine and to support self-certification of MDI eligibility. Organizations that already collect volunteered ethnicity data from customers and members must take care to maintain the confidentiality of the collected data. Credit unions that elect this option to support self-certification should maintain the collected data separately from members' personal account files, and without personal identifiers (*e.g.,* name, account or social security number, etc.).

One commenter disagreed with the proposed requirement to annually review and update credit unions' MDI status, suggesting that NCUA require credit unions to follow a data review schedule that is consistent with the data each credit union relied upon to document its MDI certification. For example, when MDI eligibility is based on U.S. Census population data, the review and update would occur every 10 years. Due to frequent changes in a credit union's field of membership, and the composition of its board of directors due to annual elections, the final IRPS retains an annual schedule for the review and update of MDI self-certifications.

3. MDI Program Costs, Resources & Funding

Three commenters asked NCUA to perform a cost/benefit analysis of the new Program, detailing the new resources or processes that will be essential to realize NCUA's commitment to preserve MDIs, and how the Program will be funded. Another commenter sought further explanation of Program mechanics, funding details, the number of staff dedicated to Program implementation, the geographic distribution of Program beneficiaries, and the frequency of OMWI staff interaction with participating MDIs.

The NCUA Board anticipates no additional costs or new resources attributable to the Program, due to reliance on existing agency programs and resources offered through NCUA's Office of Small Credit Union Initiatives (OSCUI), regional offices, and Office of Consumer Protection (OCP), thus avoiding overlaps with existing supervision, chartering, training, technical assistance, and educational programs. About 92 percent of MDIs already are eligible for OSCUI services that assist and educate credit unions designated either as low-income or as small. Examiners provide additional guidance to MDIs in between examinations to assist them in resolving substantial examination or viability concerns. OCP provides guidance to assist and educate MDIs and interested minority groups in chartering and in field of membership expansions. One OMWI staff member is responsible for managing the Program. OMWI's initial interaction and communications with MDIs will include OMWI's participation at events attended by MDIs, and OMWI's assistance provided upon request from MDIs.

4. MDI Program Benefits

One commenter favored an expansion of financial support to enable the Program to provide direct financial support to MDIs. Financial support to eligible MDIs will be offered through the existing grant and loan programs funded by NCUA's Community Development Revolving Loan Fund (CDRLF).

Two commenters encouraged NCUA to provide technical assistance to MDIs to avoid insolvency. One suggested two ways to strengthen the net worth of MDIs in response to unusual losses related to economic conditions outside the credit union's control: (1) Develop criteria and goals for access to assistance under section 208 of the Federal Credit Union Act (§ 208 assistance);[15] and (2) make CDRLF funding a source of secondary capital for low-income designated credit unions, especially MDIs.

The NCUA Board emphasizes that the agency's role in preserving MDIs and providing technical support not only is to help MDIs survive, but to help them thrive as ongoing concerns. Section 208 assistance is available to all credit unions under at least one of three conditions: (1) To assist in the voluntary liquidation of a solvent credit union; (2) to avert the liquidation of a credit union that NCUA determines is in danger of insolvency; or (3) when NCUA determines it is needed to reduce the risk, or avert the threat, of a loss to the National Credit Union Share Insurance Fund.[16]

NCUA typically provides § 208 assistance to facilitate a sound merger or consolidation of an insured credit union in order to avert the liquidation of a credit union. Other than to avert the liquidation of a credit union that NCUA determines on a case-by-case basis is in danger of insolvency, regardless whether it is an MDI, § 208 assistance is not used solely to improve a credit union's capital position. The NCUA Board reserves the use of § 208 assistance for credit unions under the above three conditions. However, the agency plans to enhance its guidance to examiners to sensitize them about the availability of § 208 assistance for MDIs, as well as about the ''General Preference Guidelines'' for mergers, addressed below. In contrast, the purpose of CDRLF grants and loans is to support enhanced service to underserved communities, including those served by MDIs. Unlike § 208 assistance, CDRLF grants and loans generally are not provided solely for the purpose of improving capital to avoid insolvency.

One commenter suggested making technical assistance and educational programs available on a variety of topics critical to preserving MDIs, including aid in achieving satisfactory levels of operations and regulatory performance. OSCUI currently provides technical guidance and educational programs to assist MDIs, as well as small credit unions, in achieving these objectives regardless of low-income designation and asset size. These programs include NCUA-sponsored videos, webinars, consulting services, newsletters, and other publications, including a *Credit Union Leadership Resource Manual.*

One commenter advocated adopting a plan that combines targeted resources with supervisory authority in an effort to resolve material safety and soundness concerns among troubled MDIs. NCUA has no plans to make MDI preservation a part of the examination and/or supervision processes, although examiners are encouraged to provide additional guidance to MDIs in resolving material safety and soundness concerns whenever feasible. Also, OSCUI will continue to provide MDIs with technical assistance and educational and consulting services to assist them in resolving these concerns, thus improving their viability. OMWI will aid MDIs by facilitating and monitoring the assistance they receive, will report to Congress annually on

[15] 12 U.S.C. 1788(a). *See also* 12 U.S.C. 1790d(o)(2)(B).

[16] 12 U.S.C. 1788(a)(1)–(2).

these efforts to preserve MDIs and to create new MDIs, and will reevaluate and enhance the Program as it matures.

5. MDI Program Partnerships

Two commenters suggested collaborating with interested stakeholders (*e.g.,* trade associations) to increase the likelihood of preserving MDIs, as well as to participate with NCUA's OMWI as a resource partner. One of the two commenters advocated expanding the Program's outreach to include a webinar on the application process for would-be MDIs, workshop sessions at trade conferences, and a comprehensive marketing program to increase awareness. NCUA's Office of Consumer Protection (OCP) recently published the *Federal Credit Union Charter Application Guide,* which provides detailed step-by-step instructions for chartering a new federal credit union. Additionally, NCUA is building relationships and plans to collaborate with credit union trade associations, credit unions, and other organizations to provide mentoring and educational opportunities for MDIs, including workshops and webinars. Interested organizations and credit unions should contact OMWI and suggest ideas for possible partnerships.

One commenter encouraged NCUA's OMWI to collaborate with the original FIRREA-designated agencies, and the two agencies that joined them, to implement their ideas and suggestions. To develop and enhance NCUA's Program, OMWI continues to consult with its counterparts at the FDIC, the OCC and the Fed, to review their MDI programs, and to attend their interagency MDI and Community Development Financial Institution Banks' Conferences. NCUA will continue to work with its counterparts, whenever feasible, to obtain additional ideas to enhance its Program.

6. General Preference Guidelines for MDI Mergers

One commenter supported the FIRREA-prescribed ''General Preference Guidelines'' for mergers (Guidelines),[17] which give MDIs preference as a merger partner, provided that other relevant factors are given appropriate weight and consideration (*e.g.,* the acquiring MDI's capacity to offer the same and/or improved financial services and access to the acquired members).

To implement the Program, another commenter encouraged NCUA to work closely with state regulators to apply the Guidelines seamlessly and fairly when comparing potential MDI versus non-MDI merger partners for a troubled state-chartered credit union; to make the Program respond expeditiously and effectively to a troubled institution; and to ensure that supervisory oversight remains the focus of the Program—all without delaying the resolution of a troubled institution through merger or acquisition.

Under the final IRPS, NCUA regional offices will continue to process the mergers of troubled MDIs, working closely with state regulators to apply the Guidelines, and to ensure that the Guidelines do not conflict with safety and soundness considerations. In processing MDI mergers and purchase-and-assumption transactions, the need to respond expeditiously and effectively to troubled MDIs will continue to be the primary focus of NCUA's supervisory oversight. The Guidelines provide interested MDIs an opportunity to participate in the merger bidding process for an insolvent or troubled MDI, enabling the minority character of the MDI to be preserved.

7. Attention to Troubled MDIs

One commenter recommended establishing a clear supervisory framework and strategy to establish a sufficient period of time to permit a more aggressive workout strategy for troubled MDIs. The commenter contended that such a framework and strategy would be an important preservation step between the identification of a troubled credit union and its dissolution. The commenter suggested addressing steps that may be taken through NCUA's supervisory examinations and oversight; and recommending an aggressive strategy for intervention using supervisory authorities combined with its targeted workout teams and resources.

In addition, this commenter advocated adopting a system of triage for prioritizing attention to MDIs, based on financial health, to best support those that are financially sound in building and expanding their work, while intervening sooner with those on a less secure footing in order to preserve service to their communities. Furthermore, this commenter advocated adopting a plan to provide resources and support to struggling MDIs identified as in danger of failing either through agency enforcement action or an inability to address issues identified in a Document of Resolution (DOR) and/or Letter of Understanding and Agreement (LUA). The period between a DOR and an LUA may present a critical moment where additional help and support can be sought. This commenter suggested steps NCUA could implement to work an MDI out of distress or troubled status. The commenter suggested using NCUA's Vendor Registration process to identify an appropriate resource team to participate in workout situations and to put additional resources and technical assistance at its disposal in working to resolve sound operations in a troubled MDI. The commenter envisioned the resource team effecting a significant turnaround in 6–12 months with the intention of preserving and building the institution. If the situation is not viable, the commenter suggested the resource team would be able to assist in identifying appropriate merger partners interested in serving the minority community.

NCUA cannot adopt the commenter's suggestions regarding attention to troubled MDIs because they would involve internal agency processes beyond the scope of this final IRPS. The final IPRS is a policy statement that generally prescribes actions to preserve MDIs, such as technical assistance, training, and educational opportunities to strengthen management and/or operations, as well as to assist in resolving examination and compliance concerns. The Program will not interfere with supervisory enforcement actions duly undertaken by the other offices within the agency.

Also, due to confidentiality, NCUA cannot disclose information about troubled MDIs to resource teams involving third parties (*e.g.,* trade associations or vendors). Credit union examination results constitute confidential information; public disclosure is prohibited by law. NCUA regulations specifically prohibit the release of such information by officers, employees or agents of NCUA or any federally insured credit union.[18] Such disclosure risks harming the financial stability of credit unions or interfering in the relationship between NCUA and credit unions.

The final IRPS addresses the posting of a list of MDIs on the agency's Web site (*www.ncua.gov*) and the use of a Vendor Registration Form to provide an opportunity for qualified minorities or minority-owned firms to apply for the position of interim manager of an MDI placed in conservatorship. Other uses of the form may be considered. With the posting of an MDI list on the agency Web site, interested parties (*e.g.,* trade associations or vendors) may monitor the financial trends of all MDIs to identify troubled MDIs and offer a program to restore them to financial soundness.

[17] 12 U.S.C. 1463 note (a)(2).

[18] 12 CFR 792.11(a)(8),

8. Commenters' Other Suggestions

Rather than holding to a static number of MDIs to measure preservation, one commenter advocated chartering new MDIs in communities that would benefit from MDI service. NCUA's goals are to implement efforts not only to preserve existing MDIs, but to encourage the chartering of new MDIs, as FIRREA § 308(a) (1)–(5) prescribes.[19] NCUA's OCP and OSCUI will continue to work with groups seeking to charter new MDIs and with MDIs seeking a common bond conversion or a charter expansion, and they will assist them in the application process.

One commenter advocated publicizing information to credit unions, leagues and state agencies about NCUA's efforts to preserve MDIs and about the Program's benefits. Information pertaining to MDI preservation efforts is provided in NCUA's annual reports to Congress.[20] NCUA's MDI Reports to Congress for 2013 and 2014 are available on OMWI's Web page.[21]

Another commenter suggested limiting the regulatory burden on credit unions as a step in support of the survival of MDIs. The NCUA Board agrees with this recommendation, and is aggressively working toward this goal. In January 2013, the NCUA Board reviewed the threshold it uses to identify which credit unions qualify as small entities and thus receive special consideration regarding regulatory burden and alternatives under the Regulatory Flexibility Act (''RFA'').[22] Based on industry percentages carried forward from the last update in 2003, and corresponding risks to the Share Insurance Fund, the NCUA Board determined that credit unions with less than $50 million in assets, up from the prior $10 million threshold, were small and non-complex for purposes of the RFA.[23] These credit unions receive exemptions from certain NCUA rules, and heightened consideration of regulatory burden. Approximately 82 percent of the 655 self-identified MDIs under the proposed definition had assets of less than $50 million as of March 31, 2015. In February of 2015, the NCUA Board proposed increasing the asset threshold to define small credit unions under the RFA to $100 million.[24] The proposed rule is intended to provide regulatory relief for a greater percentage of credit unions (including MDIs) in future rulemakings. Approximately 89 percent of the 655 self-identified MDIs under the proposed definition had assets of less than $100 million as of March 31, 2015.

One commenter proposed that NCUA establish an advisory committee to assist in developing, designing, and testing strategies and approaches on how to best preserve MDIs. Rather than rely on a permanent advisory committee, NCUA may consider informal focus groups comprised of MDIs of all asset sizes and levels of complexity to accomplish the suggested goals.

Revised as explained above, the final IRPS follows.

III. Final Interpretive Ruling and Policy Statement 13–1 (Final IRPS)

1. Why is the NCUA Board issuing this final IRPS?

The NCUA Board is issuing this final IRPS to establish a Minority Depository Institution Preservation Program (Program) to achieve the goals of preserving and encouraging Minority Depository Institutions (MDIs), as section 308 of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA § 308) directs.[25] Recognizing the important role of MDIs in minority communities, the NCUA Board envisions a program of proactive steps and outreach efforts to promote and preserve minority ownership in the credit union system. To achieve these goals, the final IRPS prescribes the Program eligibility criteria and Program elements.

2. What are the goals and objectives of the MDI Program?

The Program embraces goals and objectives that relate to NCUA's mission and goal to ensure a safe, sound, and sustainable credit union system as envisioned in NCUA's current strategic plan.

The Program also reflects the preservation goals of FIRREA § 308,[26] namely:

- To preserve the present number of MDIs;
- To preserve the minority character of MDIs that are involuntarily merged, or are acquired, by following the prescribed ''general preference guidelines'' to identify a merger or acquisition partner; [27]
- To provide technical assistance to prevent insolvency of MDIs that are not now insolvent;
- To promote and encourage the creation of new MDIs; and
- To provide for training, technical assistance, and educational programs.

3. Who is eligible to participate in the MDI Program?

A credit union that meets the definition of an MDI is eligible to participate in the Program. The Program adopts the MDI definition set forth in FIRREA § 308 that applies to a mutual institution.[28] Accordingly, this final IRPS defines an MDI as a federally insured credit union in which a majority of its current members, a majority of its board of directors (BOD), and a majority of the community it services, as designated in its charter, falls within any of the eligible minority groups described below. (Hereinafter, when minority representation is required to be ''predominant'' or to consist of a ''majority,'' *i.e.,* greater than 50 percent in either case, it will be referred to as ''>50%''.)

NCUA relies on FIRREA § 308's ''minority'' definition to identify an eligible minority exclusively as any Black American, Asian American, Hispanic American, or Native American.[29] Also, for the purpose of minority representation under the MDI definition, anyone of multiple ethnicities who falls into more than one of the minority categories depicted below is a single minority individual.

[19] 12 U.S.C. 1463 note (a)(1)–(5).

[20] *Id.* § 1463 note (c).

[21] Available at: *http://www.ncua.gov/Legal/RptsPlans/Pages/OMWI.aspx.*

[22] 5 U.S.C. 601.

[23] 78 FR 4032 (January 18, 2013).

[24] 80 FR 11954 (March 15, 2015).

[25] Public Law 101–73, 103 Stat. 183 (Aug. 9, 1989).

[26] 12 U.S.C. 1463 note (a) & (c).

[27] In priority, the General Preference Guidelines for identifying an involuntary merger/acquisition partner are: (a) Same type of MDI in the same city; (b) Same type of MDI in the same state; (c) Same type of MDI nationwide; (d) Any type of MDI in the same city; (e) Any type of MDI in the same state; (f) Any type of MDI nationwide; and (g) Any other bidders (for merger/acquisition partners). 12 U.S.C. 1463 note (a)(2). Rules concerning field of membership, least cost to NCUSIF, and safety and soundness still apply to all mergers. Regional office staff will continue to process mergers and work with management and state regulators. OMWI will monitor MDI mergers and report about them to Congress annually.

[28] 12 U.S.C. 1463 note (b)(1)(C).

[29] *Id.* § 1463 note (b)(2). *Compare* 12 U.S.C. 5452(g)(3) *incorporating* 12 U.S.C. 1811 note(c)(3).

TABLE 1—MINORITY CATEGORY DEFINITIONS

Minority category	Equal Employment Opportunity Commission (EEOC)
Black American	*Black or African American* (Not Hispanic or Latino)—A person having origins in any of the black racial groups of Africa.
Native American	*American Indian or Alaska Native* (Not Hispanic or Latino)—A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
Hispanic American	*Hispanic or Latino*—A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
Asian American	*Asian* (Not Hispanic or Latino)—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam; or *Native Hawaiian or Other Pacific Islander* (Not Hispanic or Latino)—A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
Multi-Racial American	*Two or More Races*[30] (Not Hispanic or Latino)—A person who identifies with more than one of the above races.

4. How will the MDI Program function?

NCUA's Office of Minority and Women Inclusion (OMWI) administers the Program. A federally insured credit union can self-certify as an MDI by affirmatively answering the following questions within NCUA's Credit Union Online Profile (CU Online System), accessible from the NCUA Web site,[31] or when submitting a Call Report: (1) Are more than 50 percent of your credit union's current and eligible potential members Black American, Native American, Hispanic American or Asian American?; [32] and (2) Is more than 50 percent of your credit union's current board of directors Black American, Native American, Hispanic American or Asian American?

If both questions are answered ''yes'', the credit union may self-certify via NCUA's Credit Union Online Profile system that it meets the >50% minority criteria, as the case may be. A credit union defined as a small entity under the Regulatory Flexibility Act (RFA) may self-certify >50% representation among its current members, and within the community it services (current and potential members combined), based solely on knowledge of those members. A credit union not defined as a small entity under the RFA may rely on one of the following methods, as applicable, to determine the minority composition of its current membership exclusively, and of the community it services, consisting of the combined current and potential membership:

(A) Ascertain the minority representation using demographic data from the U.S. Census Bureau (using the U.S. Census Bureau or FFIEC Web site) based on the area(s) where the combined current and potential membership resides, such as a township, borough, city, county, or Metropolitan Statistical Area (MSA). If the U.S. Census data (*e.g.,* census tracts, zip codes, townships, boroughs, cities, counties, etc.) shows that the area's population is comprised mostly of eligible minorities, the credit union may assume that its current membership and the community it services both have the same minority composition as the U.S. Census data indicates.

(B) Use Home Mortgage Disclosure Act (HMDA) data to calculate the reported number of minority mortgage applicants divided by the total number of mortgage applicants within the credit union's membership. HMDA data can be obtained from the FFIEC Web site. If the share of minority representation among applicants is >50%, the minority membership and the predominantly community criteria may be met. If a credit union grants a majority of its mortgage loans to minorities, it is most likely the majority of the community the credit union services (its current and potential members) will consist of minorities.

(C) Elect to collect data from members who voluntarily choose to self-identify as an eligible minority and use the data to determine minority representation among the credit union's membership. The credit union may wish to consider using an unbiased third party to conduct such a collection process. For example, data can be collected through a survey of members assessing the services they desire, or by mailed electoral ballots for official positions. Once collected, it is essential to maintain the confidentiality of the data; it should not be retained in the members' file or with any personal identifiers (*e.g.,* name, account or social security numbers, etc.) If a majority of its current members are minorities, it is most likely the majority of the community the credit union services (its current and potential members) will consist of minorities.

(D) Use any other reasonable form of data, such as membership address list analyses, or an employer's demographic analysis of employees.

A credit union defined as a small entity under the RFA that self-identifies as an MDI should maintain some form of the documentation that it relied upon to determine that, as explained above, it meets the minimum minority representation among its membership. This documentation may consist of demographic data obtained from the U.S. Census Bureau,[33] from a credit union's HMDA report, or from any other reasonable source and form of data (*e.g.,* member survey, sponsor's employee demographic or members' zip code analysis).

Regardless of asset size and the method a credit union uses to self-certify as an MDI, the validity of the self-certification (and the supporting data) is subject to verification by NCUA based on minority representation where the credit union's members reside.

If NCUA questions a credit union's certification or the data supporting it (*e.g.,* members' addresses) is found to be at odds with a credit union's self-certification of >50% minority representation among either its current membership, the community it services (consisting of current and potential

[30] U.S. Equal Employment Opportunity Commission's EEO–1 Report-Race/Ethnicity Categories.

[31] *www.ncua.gov.*

[32] The community serviced by a multiple common bond credit union consists of both its current members and the eligible non-members within the select groups designated by its charter. For example, the current members and eligible non-members may all reside in one city, county, or MSA. The community serviced by a community credit union consists of both its current members and the eligible non-members who reside within the well-defined local community designated by its charter.

[33] *www.census.gov* or *www.FFIEC.gov.*

members) or its board of directors, NCUA's OWMI will:

(1) Notify the credit union in writing about its reasons for invalidating the certification.

(2) Provide the credit union an opportunity to submit documentation and/or a rationale to support its MDI self-identification within 60 days of receiving OMWI's notification.

(3) Review the documentation and/or rationale the credit union submits and inform the credit union whether, as a result, it meets the >50% minority criterion.

(4) Deny the MDI designation if the credit union either provides no documentation and/or rationale, or provides documentation and/or rationale that, in NCUA's discretion, is insufficient to support a certification based upon >50% minority representation under all criteria.

NCUA will periodically review and determine whether an MDI continues to meet the MDI definition. A credit union may no longer meet the MDI definition as a result of FOM expansions (*e.g.,* mergers, purchase and assumptions, new groups added to the FOM, or charter conversions) and changes resulting from board of directors elections. NCUA, at its discretion, may continue to treat a credit union as an MDI under this final IRPS in the event its board of directors no longer meets the minority criteria, provided there is >50% minority representation among both the credit union's current members and the community it serves.

Once it qualifies as an MDI, a credit union should annually assess whether it continues to meet the MDI definition (*e.g.,* December 31st Call Report cycle), and update its status on NCUA's Credit Union Online Profile system as necessary.

Participation in the MDI Program is voluntary. An MDI may discontinue its participation at any time by updating its status on NCUA's Credit Union Online system. In that event, the credit union would no longer be eligible to participate in any MDI Program initiatives (*e.g.,* MDI merger/acquisition preference consideration or MDI partnerships).

5. What are the elements of the MDI Program?

NCUA seeks to provide MDI Program participants a variety of initiatives to assist in preserving the economic viability of their institutions. The initiatives include technical assistance and educational opportunities for MDIs through NCUA's Office of Small Credit Union Initiatives (OSCUI).[34] This technical assistance may include participation in:

(1) OSCUI's Consulting Program;

(2) NCUA-sponsored training, webinars, etc.; and

(3) Grant or loan programs of NCUA's Community Development Revolving Loan Fund (CDRLF).

The technical assistance may also include examiner guidance in resolving examination concerns; in locating new sponsors, mentors, or merger partners; in expanding the field of membership; and in setting up new programs and services. Additionally, the NCUA Board will consider providing Section 208 assistance to avert the liquidation of a credit union that it determines on a case-by-case basis is in danger of insolvency, regardless whether the credit union is an MDI.[35]

NCUA may aid in coordinating partnerships between MDIs and other organizations (*e.g.,* other MDIs, and/or trade associations) as a means of providing technical or operational assistance to MDIs. This assistance may include training for officials and staff, expertise in technical areas (*e.g.,* marketing, FOM expansion guidance, bidding on merger proposals), equipment, and assistance for specific projects or to achieve specific goals.

NCUA will publish a list of federally insured MDIs on its Web site (*www.ncua.gov*) to enable organizations (*e.g.,* banks, other MDIs, trade associations or other third parties) to identify MDIs that would benefit from partnering, mentoring, additional resources, and/or business relationships. Banks can obtain Community Reinvestment Act (CRA) credit for investing in MDIs. For example, if a bank were to have an unused building, the bank could lease that space to an MDI at no charge or at a low cost, and receive a corresponding CRA credit.

NCUA will monitor MDIs and will report to Congress annually on the number and overall financial condition of MDIs, along with actions taken by the agency to preserve and strengthen them and to encourage the chartering of new ones.

NCUA will use FIRREA's prescribed General Preference Guidelines (see § II.6. above) to attempt to preserve the minority character of failing MDIs that are involuntarily merged or acquired. In the event of an involuntary merger/acquisition of a troubled MDI,[36] NCUA will invite bids from MDIs that are qualified to partner with a failing MDI, along with non-MDI credit unions. OMWI also will assist in locating an MDI partner for MDIs wishing to voluntarily merge their operations. To be considered as an acquirer, an MDI is strongly encouraged to document its desire to acquire another MDI by registering itself on NCUA's Merger Registry via the CU Online System.

Additionally, any organization or person seeking to be a candidate for managing the conservatorship of an MDI should complete an NCUA Vendor Registration Form (NCUA 1772)[37] and OSCUI's Credit Union Service Provider (CUSP) Database Registration Form.[38] OMWI can provide NCUA regional offices with a list of diverse candidates who have requested consideration for the position of interim Chief Executive Officer/Manager of a conserved MDI, upon request.

Finally, the Office of Consumer Protection and OSCUI will be available to provide assistance, and guidance in the application process, to groups that may be interested in chartering a new MDI, and to MDIs wishing to apply to change their charter or field of membership. For detailed step-by-step instructions on chartering a federal credit union, please refer to the *Federal Credit Union Charter Application Guide.*[39]

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact the IRPS may have on a substantial number of small entities.

[34] OSCUI's services are generally offered to credit unions that have less than $50 million in assets or are low-income designated. By statute, grants and loans from the CDRLF are available only to low-income designated credit unions. The webinars and training programs are open to all credit unions. The MDI Program expands consulting services to all MDIs.

[35] 12 U.S.C. 1788(a)(1)–(2).

[36] A merger is involuntary whenever the credit union is insolvent. 12 U.S.C. 1787(a) (1). A credit union is insolvent when the total amount of the credit union's shares exceeds the present cash value of its assets after providing for liabilities unless: (i) It is determined by the NCUA Board that the facts that caused the deficient share-asset ratio no longer exist; and (ii) The likelihood of further depreciation of the share asset ratio is not probable; and (iii) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and (iv) The probability of a further potential loss to the insurance fund is negligible. 12 CFR 700.2(e)(1)

[37] The Vendor Registration Form can be accessed, completed and submitted on NCUA's Web site via the following link: *http://www.ncua.gov/about/Documents/Procurement/VendorRegistration.pdf.*

[38] The CUSP Registration Form and Instructions can be accessed on NCUA's Web site at: *http://www.ncua.gov/Resources/OSCUI/Pages/CUSP.aspx.*

[39] *www.FCU-Charter-Application-Guide.*

The final IRPS permits a credit union defined as small under the RFA to self-certify that it meets the MDI definition based solely on its knowledge of its current membership and the community it services (*e.g.,* potential membership identified in its charter), without any supporting documentation. The Program will have a significantly beneficial economic impact on small entities because it offers eligible credit unions, including small entities, various forms of technical assistance and educational opportunities at no cost. NCUA therefore certifies that the final IRPS will not have a significant adverse economic impact on a substantial number of small credit unions. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, each referred to as an information collection. The 2013 proposed IRPS identified a new information collection consisting of the procedure for a credit union to document its self-certification of eligibility to participate in the Program.[40]

The proposed IRPS invited interested persons to submit comments on the prescribed information collection requirement to the Office of Management and Budget (OMB), with a copy to NCUA, at the address provided in the preamble to the proposed IRPS. NCUA received the following comments on the information collection requirement prescribed in the proposed IRPS, encouraging the agency to:

- Remove the minority representation requirement among management officials in the MDI definition;
- restrict the collection of data by any method that allows members to voluntarily identify themselves as a minority;
- require the majority of a credit union's members' deposits and/or loan products to be held by racial minorities;
- conform the annual review and update of the minority self-certification to the updating frequency of the data supporting a self-certification (*e.g.,* every ten years if using U.S. Census data); and
- provide a portal on NCUA's Web site for credit unions to access the sources of data relevant to self-certifying as an MDI, such as links to U.S. Census and HDMA data.

Section II of this final IRPS addresses these comments. In response, NCUA has narrowed the scope of the minority representation requirement among a credit union's management to its board of directors, thus reducing the paperwork burden of assessing minority representation among senior management officials. Also, NCUA has displayed on the agency's Web site links to sources of data for self-certifying as an MDI; thus reducing the burden on potential MDIs to locate the Web sites for assessing source information to document their self-certification. NCUA will apply to OMB for approval of the final IRPS.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the Executive Order to adhere to fundamental federalism principles. This final IRPS will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final IRPS does not constitute a policy that has federalism implications for purposes of the executive order.

Treasury and General Government Appropriations Act, 1999

NCUA has determined that this final IRPS will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

The Board's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether this final IRPS is understandable and minimally intrusive if implemented as proposed.

By the National Credit Union Administration Board on June 18, 2015.

Gerard S. Poliquin,

Secretary of the Board.

[FR Doc. 2015–15515 Filed 6–23–15; 8:45 am]

BILLING CODE 7535–01–P

[40] 78 FR 46374 (July 31, 2013)

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Reestablishment

The Chief Operating Officer of the National Science Foundation has determined that the reestablishment of the Proposal Review Panel for International Science and Engineering is necessary and in the public interest in connection with the performance of the duties imposed upon the National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name OF Committee: Proposal Review Panel for International Science and Engineering (#10749)

1. Nature/Purpose: The International Science and Engineering proposal review panel will advise the National Science Foundation (NSF) on the merit of proposals requesting financial support of research and research-related activities. The Committee will review proposals submitted to NSF under the purview of the Office of International Science and Engineering Program (OISE).

Responsible NSF Official: Rebecca Keiser, Head, Office of International Science and Engineering, National Science Foundation, 4201 Wilson Boulevard, Stafford II, Suite 1155, Arlington, VA 22230. Telephone: 703/292–8710

Dated: June 18, 2015.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2015–15421 Filed 6–23–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*). This is the second notice for public comment; the first was published in the **Federal Register** at 79 FR 2014–18873 filed 11 August 2014, and no comments were received. Comments regarding whether the collection of information is necessary for the proper performance of

the functions of the NSF, including whether the information will have practical utility; the accuracy of the NSF's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility and clarity of the information to be collected, including through the use of automated collection techniques or other forms of information technology; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 7th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission may be obtained by calling 703–292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: 2015 Survey of Doctorate Recipients.

OMB Approval Number: 3145–0020.

Summary of Collection. The Survey of Doctorate Recipients (SDR) has been conducted biennially since 1973 and is a longitudinal survey. The 2015 SDR will consist of a sample of individuals less than 76 years of age who have earned a research doctoral degree in a science, engineering or health field from a U.S. institution. The purpose of this longitudinal survey is to collect data that will be used to provide national estimates on the U.S.-educated doctoral science and engineering workforce and changes in their employment, education and demographic characteristics.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ''. . . provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.'' More recently, the National Center for Science and Engineering Statistics (NCSES) was established within NSF by Section 505 of the America COMPETES Reauthorization Act of 2010 and given a broader mandate to collect data related to STEM education, the science and engineering workforce, and U.S. competitiveness in science, engineering, technology, and R&D. The SDR is designed to comply with these mandates by providing information on the supply and utilization of the nation's doctoral scientists and engineers.

The NSF uses the information from the SDR to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering* and *Science and Engineering Indicators.* The NSF publishes statistics from the SDR in many reports, but primarily in the biennial series, *Characteristics of Doctoral Scientists and Engineers in the United States.* A public release file of collected data, designed to protect respondent confidentiality, also will be made available to researchers on the Internet.

Data will be obtained by web survey, mail questionnaire, and computer-assisted telephone interviews beginning in September 2015. The survey will be collected in conformance with the Confidential Information Protection and Statistical Efficiency Act of 2002, and the individual's response to the survey is voluntary. NSF will ensure that all information collected will be kept strictly confidential and will be used only for statistical purposes.

A statistical sample of approximately 120,000 individuals with U.S.-earned doctorates in science, engineering or health will be contacted in 2015. This sample will include approximately 106,000 individuals residing in the U.S. and 14,000 residing abroad. NSF expects the overall response rate to be 70 percent.

Estimate of Burden: The amount of time to complete the questionnaire may vary depending on an individual's circumstances; however, on average it takes approximately 25 minutes. Assuming a 70 percent response rate (84,000 respondents), NSF estimates that the annual burden for the 2015 SDR is estimated to be 35,000 hours.

Comment: On 11 August 2014, NSF published in the **Federal Register** (79 FR 2014–18873) a 60-day notice of our intent to request reinstatement of this information collection authority from OMB. In that notice, NSF solicited public comments for 60 days ending 10 October 2014. No comments were received from the public notice. However, the first notice stated, ''NSF estimates increasing the current 47,000 sample size by no more than 70,000 for a total sample size not to exceed 117,000 SEH doctorate holders'' and assumed a response rate of 80%. After additional sample redesign work, the sample size and estimated response rates were changed to those described above: A sample of approximately 120,000 with a 70% response rate, and a September, rather than February, start date. The later start date reflects the time spent on the redesign efforts, and the additional work required to select and locate new sample members.

Dated: June 18, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–15465 Filed 6–23–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 24, 2015. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

1. *Applicant:* Helen Glazer, 3413 Nancy Ellen Way, Owings Mills, MD 2117.

Permit Application: 2016–002.

Activity for Which Permit is Requested: ASPA entry, Applicant, as an NSF artist, desires to enter several ASPAs in order to take photos for use in hand painted photographs and 3D sculpture creation.

Location: ASPA 121 Cape Royds; ASPA 122 Arrival Heights; ASPA 131 Canada Glacier; ASPA 157 Backdoor Bay; ASPA 158 Hut Point; ASPA 172 Lower Taylor Glacier and Blood Falls.

Dates: October 25, 2015 to January 4, 2016.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2015–15501 Filed 6–23–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0147]

Thomas Saporito on Behalf of Saprodani Associates

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to a petition dated March 12, 2011, filed by Thomas Saporito (the petitioner), requesting that the NRC take action with regard to all operating reactor licensees. The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: June 24, 2015.

ADDRESSES: Please refer to Docket ID NRC–2011–0147 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0147. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML15114A411) on a petition filed by the petitioner on March 12, 2011 (ADAMS Accession No. ML110740026). The petition was supplemented by documents dated April 14, April 16, and May 25, 2011 (ADAMS Accession Nos. ML11110A026, ML11110A027, ML11110A028, ML11119A024, and ML111450897, respectively.)

The petitioner requested that the NRC:

1. Order the immediate shutdown of all nuclear power reactors located on or near an earthquake fault line in the United States.

2. Order the immediate shutdown of all power reactors employing GE Mark I containment design in the United States, characterizing such design as flawed from the nuclear safety standpoint.

3. Advise other countries employing the GE Mark I nuclear power reactors about the serious nuclear safety design flaws associated with that design, which is likely to result in a serious nuclear accident comparable to the Japanese nuclear disaster.

4. Immediately revoke all 20-year license extensions issued to NRC licensees, because the NRC ''has improperly and illegally granted 20-year license extensions to the 40-year license that was initially granted by the agency for the 104 nuclear reactors throughout the United States.''

As the basis for these requests, the petitioner cited the events in Japan at the Fukushima Dai-ichi Nuclear Power Plant.

On April 14, 2011, and May 25, 2011, the petitioner met with the NRC's Petition Review Board. The meetings provided the petitioner an opportunity to provide additional information and to clarify issues cited in the petition. The transcripts for those meetings are available in ADAMS under Accession Nos. ML11109A014 and ML11146A010, respectively.

The NRC sent a copy of the proposed director's decision to the petitioner and the licensees for comment on April 8, 2015 (ADAMS Package Accession No. ML13018A145). The petitioner and the licensees were asked to provide comments within 2 weeks on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. Comments were received from two licensees and are addressed in an attachment to the final director's decision. The staff did not receive any comments from the petitioner.

The Director of the Office of Nuclear Reactor Regulation has determined that the following requests are denied: (1) To require that the NRC Order the immediate shutdown of all nuclear power reactors located on or near an earthquake fault line in the United States, and (2) to require that the NRC Order the immediate shutdown of all power reactors employing GE Mark I containment design in the United States. The NRC rejected Request 3 on the basis that the NRC was already implementing the actions requested. The NRC rejected Request 4 on the basis that the petitioner's claim was general and insufficient to warrant further inquiry, and that the NRC staff had already reviewed, evaluated, and resolved the issue.

The reasons for this decision are explained in the director's decision (DD–15–06) under Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR) of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR

2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 17th day of June, 2015.

For the Nuclear Regulatory Commission.

William M. Dean,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–15518 Filed 6–23–15; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Harrington Air Systems, LLC and J.C. Cannistraro, LLC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation (''PBGC'') has received a request from Harrington Air Systems, LLC, and its sister company J.C. Cannistraro, LLC, for an exemption from the bond/escrow requirement of section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Sheet Metal Workers National Pension Fund. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser posts a bond or deposits money in escrow for the five-plan-year period beginning after the sale. PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption PBGC is required to give interested persons an opportunity to comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be received on or before August 10, 2015.

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- Email: *reg.comments@pbgc.gov.*
- Fax: 202–326–4224.
- Mail or Hand Delivery: Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments and non-confidential portions of the request may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Bruce Perlin (*Perlin.Bruce@PBGC.gov*), 202–326–4020, ext. 6818 or Jon Chatalian (*Chatalian.Jon@PBGC.gov*), ext. 6757, Office of the Chief Counsel, Suite 340, 1200 K Street NW., Washington, DC 20005–4026; (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA'' or ''the Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contributions base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes PBGC to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S.1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR part 4204), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (§§ 4204.12–4204.13) is to be made by the parties to the sale to the plan in question. PBGC will consider a waiver request by a purchaser or seller only if the transaction does not satisfy the regulatory tests or the parties decline to provide the plan financial information necessary to show satisfaction of one of the regulatory tests because it is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) (the Freedom of Information Act).

Under § 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 4204.22(b) of the regulation require PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register,** and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Harrington Air Systems, LLC (''HAS'') and its sister company J.C. Cannistraro, LLC (''JCC'') (collectively, ''Cannistraro'' or the ''Buyer'') for an exemption from the bond/escrow requirement of § 4204(a)(1)(B) with respect to the Sheet Metal Workers National Pension Fund (the ''Fund'') in connection with the purchase of most of the assets of Harrington Brothers Corporation (''HBC'' or the ''Seller'') on February 28, 2014. HAS is an entity set up by JCC in order to effectuate the purchase of HBC's assets. In the request, the Buyer represents that HAS and JCC are businesses under common control pursuant to 26 CFR 1.414(c)-2 and therefore treated as one employer under ERISA. Additionally, the Buyer represents, among other things, that:

1. Under the terms of the asset purchase agreement, the Buyer paid the Seller approximately $5.1 million in the form of an unsecured promissory note that may be adjusted post-closing based on the performance of certain construction contracts in place at the time of the transaction.

2. The Buyer is obligated to contribute to the Fund for the purchased operations for substantially the same contribution base units for which the Seller had an obligation to contribute.

3. The Seller has agreed to be secondarily liable for any withdrawal liability it would have had with regard to the sold operations (if not for § 4204) should the Buyer withdraw from the Fund within the five plan years following the sale and fail to pay withdrawal liability.

4. The estimated amount of unfunded vested benefits allocable to the seller with respect to the operations sold is about $23.5 million.

5. The amount of the bond/escrow required under § 4204(a)(1)(B) is $1.68 million.

6. After the close of the transaction, the Buyer requested that the trustees of the Fund waive the bond/escrow requirements of ERISA § 4204. By its counsel, the Fund denied the request on the grounds that the Buyer had not satisfied the income or asset tests under PBGC's regulations for an exemption from the bond/escrow requirement of § 4204(a)(1)(B).

7. The Fund determined that to receive a waiver of the bond/escrow requirement under the net income test of 29 CFR 4204.13(a)(1), the average net income needed for the three-year period prior to the transaction should have been $400,000 greater than the amount reported.

8. The Buyer asserts that the three-year average net income of JCC was lowered due to an ''aberrantly poor year'' in the construction industry in Massachusetts in 2011. The Buyer states that JCC's average net income for the years between 2011–2014 was approximately $1 million more than what was required to meet the net income test under 29 CFR 4204.13(a)(1), and that its net income for the 3 years between 2012–2014 was approximately $1.5 million more than what was required.

9. The Buyer further asserts that, in denying the Buyer's request for a waiver, the Fund looked only at the average net income of JCC. It contends that aggregating the net incomes of JCC and HAS, two businesses under common control under 26 CFR 1.414(c)-2, shows that there ''can be no serious argument that a waiver will create risk for the Fund, let alone substantial risk.'' HAS's anticipated net income for 2014 is approximately $300,000.

10. The Buyer's request additionally states that a variance of the bond/escrow requirement in this instance furthers the purposes of Title IV of ERISA because Congress, in enacting Title IV, sought to minimize intrusions into normal business operations while protecting plans. The Buyer asserts that HBC had previously been a ''struggling enterprise'' and that the transaction has ''resulted in a more stable and financially secure contributing employer to the Fund.''

Comments

All interested persons are invited to submit written comments on the pending exemption request. All comments will be made part of the administrative record.

Issued in Washington, DC, on this 16th day of June, 2015.

Alice C. Maroni,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–15415 Filed 6–23–15; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31683; 812–14425]

Amplify Investments LLC and Amplify ETF Trust; Notice of Application

June 18, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for exemptions from sections 12(d)(1)(A), (B), and (C) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

Summary of the Application: Applicants request an order that would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies, registered closed-end management investment companies, business development companies, as defined by section 2(a)(48) of the Act (''business development companies''), and registered unit investment trusts that are within or outside the same group of investment companies as the acquiring investment companies and (b) permit certain registered open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

Applicants: Amplify Investments LLC (''Adviser'') and Amplify ETF Trust (''Trust'').

Filing Dates: The application was filed on February 20, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 13, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Adviser and Trust, 3250 Lacey Road, Suite 130, Downers Grove, Illinois 60515.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, at (202) 551–6773, or James M. Curtis, Branch Chief, at (202) 551–6712 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Massachusetts business trust and intends to register with the Commission as an open-end management investment company. The Trust intends to have multiple series which pursue distinct investment objectives and strategies.[1] The Adviser, a Delaware limited liability company, is a registered investment adviser under the Investment Advisers Act of 1940. The Adviser, or an entity controlling, controlled by, or under common control with the Adviser, will serve as the investment adviser to each of the Funds.[2]

3. Applicants request relief to the extent necessary to permit: (a) A Fund (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies (each an ''Unaffiliated Open-End Investment Company''), registered closed-end management investment companies, business development companies (each registered closed-end management investment company and each business development company, an ''Unaffiliated Closed-End Investment Company'' and, together with the Unaffiliated Open-End Investment Companies, the ''Unaffiliated Investment Companies''), and registered unit investment trusts (''UITs'') (the ''Unaffiliated Trusts,'' and collectively with the Unaffiliated Investment Companies, the ''Unaffiliated Funds''), in each case, that are not part of the same ''group of investment companies'' as the Funds of Funds; [3] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') (''Broker'') to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, closed-end management investment companies and UITs, as well as business development companies (if any), in the same group of investment companies as the Funds of Funds (collectively, the ''Affiliated Funds,'' and, together with the Unaffiliated Funds, the ''Underlying Funds''); [4] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[5] Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds organized as open-end management investment companies and UITs to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

4. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the Act to permit any existing or future Fund of Funds that relies on section 12(d)(1)(G) of the Act (''Section 12(d)(1)(G) Fund of Funds'') and that otherwise complies with rule 12d1–2 under the Act, to also invest, to the extent consistent with its investment objective(s), policies, strategies and limitations, in other financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public

[1] The Applicants request that the order apply not only to any existing series of the Trust, but that the order also extend to any future series of the Trust, and any other existing or future registered open-end management investment companies and any series thereof that are part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act, as the Trust and are advised by the Adviser or any other investment adviser controlling, controlled by, or under common control with the Adviser (together with the series of the Trust, each series a ''Fund,'' and collectively, the ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] All references to the term ''Adviser'' include successors-in-interest to the Adviser. A successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[3] For purposes of the request for relief, the term ''group of investment companies'' means any two or more investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[4] Certain of the Underlying Funds may be registered under the Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each, an ''ETF''). In addition, certain of the Underlying Funds may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies'' as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies'' as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[5] Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies.

interest and the protection of investors. Applicants request an exemption under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) The Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate [6] may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser and any person controlling, controlled by or under common control with the Adviser, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised or sponsored by the Adviser or any person controlling, controlled by or under common control with the Adviser (collectively, the ''Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds (''Sub-Adviser'') and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the ''Sub-Adviser Group'').

5. With respect to closed-end Underlying Funds, applicants note that although closed-end funds may not be unduly influenced by a holder's right of redemption, closed-end Underlying Funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[7]

7. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (each, a ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the ''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or Unaffiliated Closed-End Investment Company whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, solely upon notice to a Fund of Funds, an Unaffiliated Investment Company could terminate a Participation Agreement with the Fund of Funds effective at the end of the notice period specified in the Participation Agreement.

8. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or an affiliated person of the

[6] A ''Fund of Funds Affiliate'' is the Adviser, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

[7] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

Adviser by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

9. Applicants further state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in in rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[8]

10. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 12 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Adviser and, therefore, affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Funds organized as open-end management investment companies and UITs may also be deemed to be affiliated persons of one another if a Fund of Funds owns 5% or more of the outstanding voting securities of one or more of such Underlying Funds. Applicants state that the sale of shares by Underlying Funds organized as open-end management investment companies and UITs to the Funds of Funds and the purchase of those shares from the Funds of Funds by such Underlying Funds (through redemptions) could be deemed to violate section 17(a).[9]

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund that is an open-end management investment company will sell its shares to or purchase its shares from a Fund of Funds will be in accordance with the rules and regulations under the Act.[10] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and Underlying Fund, and with the general purposes of the Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the 1934 Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with rule 12d1–2 under the Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting a Section 12(d)(1)(G) Fund of Funds to invest in Other Investments as described in the

[8] Any references to NASD Conduct Rule 2830 include any successor or replacement Financial Industry Regulatory Authority rule to NASD Conduct Rule 2830.

[9] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e) (1) of the Act. The Participation Agreement also will include this acknowledgement.

[10] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds (including business development companies).

application would not raise any of the concerns that section 12(d)(1) of the Act was intended to address.

4. Consistent with its fiduciary obligations under the Act, a Section 12(d)(1)(G) Fund of Funds' Board will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

A. Investments by Funds of Funds in Underlying Funds

Applicants agree that the order granting the requested relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that its Adviser and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Investment Company or Unaffiliated Trust or any Unaffiliated Fund Affiliate of such Unaffiliated Investment Company or Unaffiliated Trust in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth (1) the party from whom

the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund, other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act, in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act and either is an Affiliated Fund or is in the same ''group of investment companies'' as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions.

B. Other Investments by Section 12(d)(1)(G) Funds of Funds

Applicants agree that the order granting the requested relief to permit Section 12(d)(1)(G) Funds of Funds to invest in Other Investments shall be subject to the following condition:

1. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–15450 Filed 6–23–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75247; File No. SR–NYSEArca–2015–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of Newfleet Multi-Sector Unconstrained Bond ETF under NYSE Arca Equities Rule 8.600

June 18, 2015.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 5, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On June 15, 2015, NYSE Arca filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): Newfleet Multi-Sector Unconstrained Bond ETF. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 replaces and supersedes the filing in its entirety.

and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares: [5] Newfleet Multi-Sector Unconstrained Bond ETF,[6] a series of the ETFis Series Trust I (''Trust'').[7]

The investment adviser to the Fund will be Etfis Capital LLC. (the ''Adviser''). The Fund's Sub-Adviser will be Newfleet Asset Management LLC (''Sub-Adviser''). ETF Issuer Solutions Inc. will serve as the Fund's operational administrator. ETF Distributors LLC will serve as the distributor (the ''Distributor'') of Fund Shares on an agency basis.[8]

The Bank of New York Mellon (the ''Administrator'') will serve as the administrator, custodian, transfer agent and fund accounting agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[9] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser and Sub-Adviser are not registered as broker-dealers but each is affiliated with one or more broker-dealers and has implemented and will maintain a fire wall with respect to each such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or Sub-Adviser become registered broker-dealers or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Description of the Fund

Principal Investments

According to the Registration Statement, the Fund will, under normal market conditions,[10] invest at least eighty percent (80%) of the Fund's net assets in fixed income securities, across all sectors of the fixed income market, and in U.S. Treasury futures. The Fund may invest across the credit rating spectrum, which includes securities rated below investment grade by a nationally recognized statistical rating organization (''NRSRO''). The Fund also may invest in unrated securities. The Fund has no target duration for its investment portfolio and the Fund's portfolio managers may target shorter or longer durations in response to their view of the fixed income markets generally or any sector thereof.

The Fund's investment objective will seek to provide a high level of current income and, secondarily, capital appreciation. According to the Registration Statement, the Fund will apply a time-tested approach to credit research to capitalize on opportunities across undervalued areas of the bond market. According to the Registration Statement, under normal market conditions, the Sub-Adviser will seek to select securities using a sector rotation approach and seek to adjust the proportion of Fund investments in various sectors and sub-sectors in an effort to obtain higher relative returns.

The Fund's investable assets will typically be allocated among various sectors and sub-sectors of the fixed income market using a top-down, relative value approach that looks at factors such as yield and spreads, supply and demand, investment environment, and sector fundamentals. The Sub-Adviser will then typically

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Commission has approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 69591 (May 16, 2013), 78 FR 30372 (May 22, 2013) (SR–NYSEArca–2013–33) (order approving Exchange listing and trading of International Bear ETF); 69061 (March 7, 2013), 78 FR 15990 (March 13, 2013) (SR–NYSEArca–2013–01) (order approving Exchange listing and trading of Newfleet Multi-Sector Income ETF); and 67277 (June 27, 2012), 77 FR 39554 (July 3, 2012) (SR–NYSEArca–2012–39) (order approving Exchange listing and trading of the Global Alpha & Beta ETF).

[7] The Trust is registered under the 1940 Act. On January 26, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–187668 and 811–22819) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 30607 (July 23, 2013) (File No. 812–14080) (''Exemptive Order'').

[8] This Amendment No. 1 to SR–NYSEArca–201[5]–42 replaces SR–NYSEArca–201[5]–42 as originally filed and supersedes such filing in its entirety.

[9] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[10] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. In the absence of normal market conditions, the Fund may invest 100% of its total assets, without limitation, in cash or cash equivalents. The Fund may be invested in this manner for extended periods depending on the Sub-Adviser's assessment of market conditions.

select particular investments using a bottom-up, fundamental research-driven analysis that includes assessment of credit risk, company management, issuer capital structure, technical market conditions, and valuations. The Sub-Adviser will select securities it believes offer the best potential to achieve the Fund's investment objective of providing a relatively high level of current income, and secondarily, capital appreciation.

The Sub-Adviser will seek to provide diversification by allocating the Fund's investments among various sectors of the fixed income markets (as described below), including corporate investment-grade, corporate high-yield, non-agency commercial mortgage-backed securities (''CMBS''), agency and non-agency residential mortgage-backed securities (''RMBS''), non-U.S. dollar securities, emerging market high-yield securities, and asset-backed securities (''ABS'').

The Fund may invest in the following fixed income securities:

- Securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies, authorities or instrumentalities, including, without limitation, collateralized mortgage obligations (''CMOs''), real estate mortgage investment conduits (''REMICs'') and other pass-through securities;
- Non-agency [11] CMBS, agency and non-agency RMBS, and other ABS, including equipment trust certificates; [12]
- Yankee bonds; [13]
- Loan assignments, including senior and junior bank loans (generally with floating rates); [14]
- Corporate bonds; and
- Taxable municipal bonds and tax-exempt municipal bonds.

The Fund represents that the portfolio generally will include a minimum of 13 non-affiliated issuers of debt securities. The Fund will only purchase performing securities and not distressed debt.[15]

The Fund may invest in securities of U.S. or non-U.S. issuers of any maturity or credit quality rating. The Fund generally will consider a security to be ''investment grade'' if it is rated within the four highest rating categories of a NRSRO or, if unrated, it is determined to be of comparable quality by the Sub-Adviser (pursuant to procedures reviewed and approved by the Trust's Board of Trustees (''Board'')). Securities that are not determined to be investment grade are considered below investment grade. There is no limitation to the Fund's holdings in below investment grade securities or non-U.S. issuers (as measured by country of risk).

The fixed income securities referenced above may be issued by foreign issuers, including foreign governments and their political subdivisions and issuers located in emerging markets countries.[16]

The fixed income securities referenced above may be short-term securities of U.S. and non-U.S. issuers.

The Fund has no target duration for its investment portfolio and the Fund's portfolio managers may target shorter or longer durations in response to their view of the fixed income markets generally or any sector thereof. Duration measures the interest rate sensitivity of a fixed income security by assessing and weighting the present value of the security's payment pattern. Generally, the longer the maturity, the greater the duration and, therefore, the greater effect interest rate changes have on the price of the security.

The Sub-Adviser will seek to adjust (i) the proportion of Fund investments primarily in the sectors described above, and (ii) the selections within sectors to obtain higher relative returns. The Sub-Adviser will regularly review the Fund's portfolio construction, endeavoring to minimize risk exposure by closely monitoring portfolio characteristics such as sector concentration and portfolio duration and by investing no more than 5% of the Fund's total assets in securities of any single issuer (excluding the U.S. government, its agencies, authorities or instrumentalities).

The Fund may invest in U.S. Treasury futures contracts traded on U.S. futures exchanges in an attempt to protect the Fund's current or intended investments from broad fluctuations in securities prices.[17]

Other Investments

While the Fund, under normal market conditions, will invest at least eighty percent (80%) of its assets in fixed income securities and financial instruments, as described above, the Fund may invest its remaining assets in other assets and financial instruments, as described below.

The Fund may hold the following exchange-traded equity securities: common stocks, preferred stocks, warrants, convertible securities, unit investment trusts, master limited partnerships, real estate investment trusts (''REITs''), exchange-traded funds (''ETFs'') [18] and exchange-traded notes (''ETNs'').[19]

The Fund will purchase such equity securities traded in the U.S. on registered exchanges.

To gain exposure to the performance of foreign issuers, the Fund may invest in the following types of equity securities: American Depositary Receipts (''ADRs''), ''ordinary shares,'' and ''New York shares'' (each of which is issued and traded in the U.S.); and Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs''), and International Depositary Receipts (''IDRs''), which are traded on foreign exchanges (all of the foregoing financial instruments collectively referred to as ''Equity Financial Instruments'').[20]

[11] ''Non-agency'' securities are financial instruments that have been issued by an entity that is not a government-sponsored agency, such as the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Home Loan Banks, or the Government National Mortgage Association.

[12] The Fund may invest up to 20% of its net assets in the aggregate in non-agency CMBS, RMBS and ABS. The liquidity of any such security will be a factor in the selection of any such security.

[13] Yankee bonds are denominated in U.S. dollars, registered in accordance with the Securities Act and publicly issued in the U.S. by foreign banks and corporations.

[14] The Fund may invest in loan assignments, including senior and junior bank loans, rated C or higher by an NRSRO or is unrated but considered to be of comparable quality by the Adviser or Sub-Adviser. The Fund will not invest in loan assignments that are in default at time of purchase. The Fund will only invest in U.S. dollar-denominated loan assignments. In addition, for investment purposes, a bank loan must have a par amount outstanding of U.S. $150 million or greater at the time it is originally issued. The Fund may invest up to 20% of its net assets in junior bank loans.

[15] Distressed debt is debt that is currently in default and is not expected to pay the current coupon.

[16] The Adviser expects that under normal market conditions, the Fund will seek to invest at least 75% of its corporate bond assets in issuances that have at least $100,000,000 par amount outstanding in developed countries and at least $200,000,000 par amount outstanding in emerging market countries.

[17] In instances involving the purchase of futures contracts, the Fund will deposit in a segregated account with its custodian an amount of cash, cash equivalents and/or appropriate securities equal to the cost of such futures contracts, to the extent that such deposits are required under the 1940 Act.

[18] The ETFs in which the Fund may invest will be registered under the 1940 Act and include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). Such ETFs all will be listed and traded in the U.S. on registered exchanges. The Fund may invest in inverse ETFs, leveraged ETFs and inverse leveraged ETFs (*e.g.,* 2X or 3X).

[19] ETNs, also called index-linked securities as would be listed, for example, under NYSE Arca Equities Rule 5.2(j)(6), are senior, unsecured, unsubordinated debt securities issued by an underwriting bank that are designed to provide returns that are linked to a particular benchmark less investor fees. The Fund will not invest in leveraged ETNs and inverse leveraged ETNs (*e.g.,* 2X or 3X).

[20] ADRs are U.S. dollar denominated receipts typically issued by U.S. banks and trust companies

With respect to its exchange-traded equity securities investments, the Fund will normally invest in equity securities that are listed and traded on a U.S. exchange or in markets that are members of the Intermarket Surveillance Group (''ISG'') or parties to a comprehensive surveillance sharing agreement with the Exchange. In any case, not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The Fund may invest in, to the extent permitted by section 12(d)(1) of the 1940 Act and the rules thereunder,[21] other affiliated and unaffiliated funds, such as open-end or closed-end management investment companies (''closed-end funds''), including other ETFs.

The Fund also may invest in the securities of other investment companies in compliance with section 12(d)(1)(E), (F) and (G) of the 1940 Act and the rules thereunder.[22]

The Fund may invest in the exchange traded securities of pooled vehicles that are not investment companies and, thus, not required to comply with the provisions of the 1940 Act. Such pooled vehicles would be required to comply with the provisions of other federal securities laws, such as the Securities Act. These pooled vehicles typically hold commodities, such as gold or oil, currency, or other property that is itself not a security.[23]

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A fixed income securities and bank loans, that are deemed illiquid by the Adviser, consistent with Commission guidance.[24] Thus, only those Rule 144A securities and bank loans, that are deemed illiquid by the Adviser would be included in the limitation of 15% of net assets in illiquid assets.[25]

The Adviser has represented that it will invest generally in loan assignments, including bank loans, that it deems highly liquid, with readily available prices.

The Fund will not invest in options contracts or swap agreements.

The Fund will seek to qualify for treatment as a regulated investment company under the Internal Revenue Code of 1986.[26]

The Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Creation and Redemption of Shares

The Trust will issue and sell Shares of the Fund only in ''Creation Units'' on a continuous basis through the Distributor, at their NAV next determined after receipt, on any business day, for an order received in proper form. All orders to create Creation Units must be placed for one or more Creation Unit size aggregations of Shares (50,000 Shares per Creation Unit). The Creation Unit size is subject to change.

The consideration for purchase of a Creation Unit of the Fund generally will consist of an in-kind deposit of ''Deposit Securities'' for each Creation Unit constituting a substantial replication, or a representation, of the securities included in the Fund's portfolio and a ''Cash Component'' computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit'', which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities. If the Cash Component is a positive number (*i.e.*, the NAV per Creation Unit exceeds the market value of the Deposit Securities), the Cash Component will be such positive amount. If the Cash Component is a negative number (*i.e.*, the NAV per Creation Unit is less than the market value of the Deposit Securities), the Cash Component will be such negative amount, and the creator will be entitled to receive cash from the Fund in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities.

The Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the list of the names and the required number of Shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit will be applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund

that evidence ownership of underlying securities issued by a foreign issuer. The underlying securities may not necessarily be denominated in the same currency as the securities into which they may be converted. The underlying securities are held in trust by a custodian bank or similar financial institution in the issuer's home country. The depositary bank may not have physical custody of the underlying securities at all times and may charge fees for various services, including forwarding dividends and interest and corporate actions. The Fund may invest in sponsored or unsponsored ADRs; however, non-exchange listed ADRs will not exceed 10% of the Fund's net assets. Ordinary shares are shares of foreign issuers that are traded abroad and on a U.S. exchange. New York shares are shares that a foreign issuer has allocated for trading in the U.S. ADRs, ordinary shares, and New York shares all may be purchased with and sold for U.S. dollars, which protects the Fund from foreign settlement risks. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer; however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world.

[21] 15 U.S.C. 80a–12(d)(1).

[22] 15 U.S.C. 80a–12(d)(1)(E),(F) and (G).

[23] Exchange-traded pooled investment vehicles include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

[24] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[25] Rule 144A securities and loan assignments, including bank loans, are subject to the Fund's 15% limitation on holdings in illiquid assets only if deemed illiquid by the Adviser. In reaching liquidity decisions relating to Rule 144A securities and loan assignments, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer.) The Adviser represents that the Adviser and the Board will continue to evaluate each 144A security and loan assignment based on the Fund's valuation procedures to oversee liquidity and valuation concerns.

[26] 26 U.S.C. 851.

until such time as the next-announced composition of the Deposit Securities is made available.

The identity and number of Shares of the Deposit Securities required for the Fund Deposit for the Fund will change as rebalancing adjustments and corporate action events are reflected from time to time by the Sub-Adviser with a view to the investment objective of the Fund. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.*, a ''cash in lieu'' amount—to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery, that may not be eligible for transfer or that may not be eligible for trading by an ''Authorized Participant'' (as described below) or the investor for which it is acting.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of the Fund Deposit, the Administrator, through NSCC, also will make available on each business day the estimated Cash Component, effective through and including the previous business day, per outstanding Creation Unit of the Fund.

Procedures for Creation of Creation Units

To be eligible to place orders to create a Creation Unit of the Fund, an entity must be (i) a ''Participating Party'', *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of NSCC (the ''Clearing Process'') or a clearing agency that is registered with the Commission, or (ii) a Depositary Trust Company (''DTC'') Participant (see ''Book Entry Only System'') and, in each case, must have executed an agreement with the Trust, the Distributor and the Administrator with respect to creations and redemptions of Creation Units (''Participant Agreement''). A Participating Party and DTC Participant are collectively referred to as an ''Authorized Participant''.

All orders to create Creation Units must be received by the Distributor no later than the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. Eastern Time) (''Closing Time''), in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and the Fund through the Administrator and only on a business day.

With respect to the Fund, the Administrator, through NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time) on each business day, the Deposit Securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Deposit Securities received on redemption may not be identical to Deposit Securities which are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally consist of Deposit Securities, as announced by the Administrator on the business day of the request for redemption received in proper form, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Deposit Securities (the ''Cash Redemption Amount''), less a redemption transaction fee. In the event that the Deposit Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential is required to be made by or through an Authorized Participant by the redeeming shareholder.

If it is not possible to effect deliveries of the Deposit Securities, the Trust may in its discretion exercise its option to redeem such shares in cash, and the redeeming Beneficial Owner will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash which the Fund may, in its sole discretion, permit.[27] In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of the Fund next determined after the redemption request is received in proper form (minus a redemption transaction fee and additional charge for requested cash redemptions specified above, to offset the Trust's brokerage and other transaction costs associated with the disposition of Deposit Securities). The Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a portfolio of securities which differs from the exact composition of the Deposit Securities but does not differ in NAV.

The right of redemption may be suspended or the date of payment postponed with respect to the Fund (1) for any period during which the Exchange is closed (other than customary weekend and holiday closings); (2) for any period during which trading on the Exchange is suspended or restricted; (3) for any period during which an emergency exists as a result of which disposal of the Shares of the Fund or determination of the Shares' NAV is not reasonably practicable; or (4) in such other circumstance as is permitted by the Commission.

Net Asset Value

The NAV of the Shares for the Fund will be equal to the Fund's total assets minus the Fund's total liabilities divided by the total number of Shares outstanding. Interest and investment income on the Trust's assets will accrue daily and will be included in the Fund's total assets. Expenses and fees (including investment advisory, management, administration and distribution fees, if any) will accrue daily and will be included in the Fund's total liabilities.

The pricing and valuation of portfolio securities will be determined in good faith in accordance with procedures approved by, and under the direction of, the Board. In determining the value of the Fund's assets, portfolio securities will generally be valued at market using quotations from the primary market in which they are traded. The Fund normally will use third party pricing services to obtain market quotations.

Securities and assets for which market quotations are not readily available or which cannot be accurately valued using the Fund's normal pricing procedures will be valued by the Trust's Fair Value Pricing Committee at fair value as determined in good faith under policies approved by the Trust's Board. Fair value pricing may be used, for example, in situations where (i) portfolio securities, such as securities with small capitalizations, are so thinly traded that there have been no transactions for that security over an extended period of time; (ii) an event occurs after the close of the exchange on which a portfolio security is principally traded that is likely to change the value of the portfolio security prior to the Fund's NAV calculation; (iii) the exchange on which the portfolio security is principally traded closes early; or (iv) trading of the particular portfolio security is halted during the day and does not resume prior to the

[27] The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

Fund's NAV calculation. Pursuant to policies adopted by the Board, the Adviser will consult with BNY Mellon and the Sub-Adviser on a regular basis regarding the need for fair value pricing. The Fund's policies regarding fair value pricing are intended to result in a calculation of the Fund's NAV that fairly reflects portfolio security values as of the time of pricing. A portfolio security's ''fair value'' price may differ from the price next available for that portfolio security using the Fund's normal pricing procedures, and the fair value price may differ substantially from the price at which the security may ultimately be traded or sold. The Board will monitor and evaluate the Fund's use of fair value pricing, and periodically reviews the results of any fair valuation under the Trust's policies.

The NAV will be determined as of the close of regular trading on the Exchange, normally 4:00 p.m. Eastern time, on each day that the Exchange is open for business.

In computing the Fund's NAV, the Fund's securities holdings will be valued based on their last readily available market price.

Exchange-traded equity securities will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the security is primarily traded at the time of valuation or, if no sale has occurred, at the last quoted bid price on the primary market or exchange on which they are traded. If market prices are unavailable or the Fund believes that they are unreliable, or when the value of a security has been materially affected by events occurring after the relevant market closes, the Fund will price those securities at fair value as determined in good faith using methods approved by the Trust's Board.

Unsponsored ADRs, which are traded OTC, will be valued on the basis of the market closing price on the exchange where the stock of the foreign issuer that underlies the ADR is listed. Investment company securities (other than ETFs), including mutual funds and closed end funds will be valued at net asset value.

Currency spot rates will be taken from major market data vendors and will generally be determined as of the close of trading of the New York Stock Exchange. Futures contracts will generally be valued at the settlement price of the relevant exchange. In computing the Fund's net asset value per Share, Rule 144A fixed income securities will be valued based on price quotations and other equivalent indications of value provided by a third party pricing service.

Corporate debt securities, bank loans, non-agency CMBS, agency and non-agency RMBS, non-U.S. dollar securities, emerging market high-yield securities, investment-grade bonds, ABS, municipal bonds, CMOs, REMICs, junk bonds, equipment trust certificates, and money market instruments generally trade in the OTC market rather than on a securities exchange. The Fund will generally value these portfolio securities by relying on independent pricing services. The Fund's pricing services will use valuation models or matrix pricing to determine current value. In general, pricing services use information with respect to comparable bond and note transactions, quotations from bond dealers or by reference to other securities that are considered comparable in such characteristics as rating, interest rate, maturity date, option adjusted spread models, prepayment projections, interest rate spreads and yield curves.

Foreign exchange rates will be priced using 4:00 p.m. Eastern Time mean prices from major market data vendors.

Availability of Information

The Fund's Web site (*www.newfleet.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[28] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund's Web site will disclose the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[29]

The Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. The NAV of Shares of the Fund will normally be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. Eastern Time) on each business day. Authorized participants may refer to the basket composition file for information regarding securities and financial instruments that may comprise the Fund's basket on a given day.

The approximate value of the Fund's investments on a per-Share basis, the Indicative Intra-Day Value (''IIV''), will be disseminated every 15 seconds during the Exchange Core Trading Session. The IIV should not be viewed as a ''real-time'' update of NAV because the IIV will be calculated by an independent third party and may not be calculated in the exact same manner as NAV, which will be computed daily.

The IIV for the Fund will be calculated during hours of trading on the Exchange by dividing the ''Estimated Fund Value'' as of the time of the calculation by the total number of outstanding Shares. ''Estimated Fund Value'' is the sum of the estimated amount of cash held in the Fund's portfolio, the estimated amount of accrued interest owing to the Fund and the estimated value of the securities held in the Fund's portfolio, minus the estimated amount of the Fund's liabilities. The IIV will be calculated based on the same portfolio holdings disclosed on the Fund's Web site. In determining the estimated value for

[28] The Bid/Ask Price of the Fund's Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[29] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

each of the component securities, the IIV will use last sale, market prices or other methods that would be considered appropriate for pricing equity securities held by registered investment companies.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's shareholder reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares and the underlying U.S. exchange-traded equity securities will be available via the Consolidated Tape Association (''CTA'') high-speed line, and from the national securities exchange on which they are listed. Price information regarding exchange-traded equity securities and futures contracts held by the Fund will be available from the exchanges trading such assets.

Quotation information from brokers and dealers or pricing services will be available for unsponsored ADRs; fixed income securities; bank loans; U.S. Treasury securities; other obligations issued or guaranteed by U.S. government agencies and instrumentalities; bank obligations; short-term securities; money market instruments; ABS; MBS; CMBS; RMBS; CMOs; shares of mutual funds; corporate debt securities; and convertible securities. Price information for investment company securities (other than ETFs and exchange-traded closed end funds) will be available from the investment company's Web site and from market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements. Foreign exchange prices are available from major market data vendors. Intra-day and closing price information for Rule 144A fixed income securities and loan assignments will be available from major market data vendors.

In addition, the IIV, (which is the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3)), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[30] The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[31] Trading in Shares of the Fund 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. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [32] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio [33] as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

Additional information regarding the Trust, Fund, and Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions and taxes, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Registration Statement.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal

[30] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

[31] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

[32] 17 CFR 240.10A–3.

[33] The term ''Disclosed Portfolio'' is defined in NYSE Arca Equities Rule 8.600(c)(2).

securities laws applicable to trading on the Exchange.[34]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.[35]

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded equity securities and futures contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, exchange-traded equity securities and futures contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded equity securities and futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (4) how information regarding the IIV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) [36] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded equity securities and futures contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, exchange-traded equity securities and futures contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded equity securities and futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. The Fund may invest up to 20% of its net assets in the aggregate in non-agency CMBS, RMBS and ABS. The Fund may invest up to 20% of its assets in junior bank loans. The Fund may not purchase or hold illiquid assets if, in the aggregate, more than 15% of its net assets would be invested in illiquid assets. The Adviser and Sub-Adviser are not registered as broker-dealers but are affiliated with two broker-dealers and have implemented and will maintain a fire wall with respect to each such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares and the underlying U.S. exchange-traded equity securities will be available via the CTA high-speed line, and from the national securities exchange on which they are listed. The Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market

[34] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[35] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[36] 15 U.S.C. 78f(b)(5).

conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or such longer period up to 90 days after publication (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 the 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–NYSEArca–2015–42 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2015–42. 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 Section, 100 F Street, NE., Washington, DC 20549 on official business days between 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–42 and should be submitted on or before July 15, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15455 Filed 6–23–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75244; File No. SR–NYSEArca-2015–23]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 3 Thereto, Relating to the Listing and Trading of Shares of the ALPS Enhanced Put Write Strategy ETF Under NYSE Arca Equities Rule 8.600

June 18, 2015.

I. Introduction

On April 15, 2015, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the ALPS Enhanced Put Write Strategy ETF (''Fund'') under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on May 5, 2015.[3] On May 12, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On May 19, 2015, the Exchange filed Amendment No. 2 to the proposed rule change, but withdrew that amendment on May 20, 2015.[5] On May 20, 2015, the Exchange filed Amendment No. 3 to the proposed rule change.[6] The Commission received no

[37] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74839 (Apr. 29, 2015), 80 FR 25729 (''Notice'').

[4] Amendment No. 1 to the proposed rule change replaced and superseded the original filing in its entirety.

[5] The Exchange withdrew Amendment No. 2 to the proposed rule change due to certain errors.

[6] Amendment No. 3 to the proposed rule change corrected typographical errors and clarified that any futures and options on futures utilized by the Fund will be U.S. exchange-traded futures contracts on the S&P 500 Index and U.S. exchange-traded options on futures contracts on the S&P 500 Index. Amendment Nos. 1 and 3 are available at: *http://www.sec.gov/comments/sr-nysearca-2015–23/nysearca201523.shtml.*

comments on the proposal, as modified by Amendment Nos. 1 and 3 thereto. This order grants approval of the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto.

II. Description of the Proposal

NYSE Arca proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by ALPS ETF Trust (''Trust''), which is registered with the Commission as an investment company.[7] ALPS Advisors, Inc. is the investment adviser (''Adviser'') to the Fund.[8] Rich Investment Solutions, LLC is the investment sub-adviser (''Sub-Adviser'') to the Fund. ALPS Fund Services, Inc. serves as the Trust's administrator, and The Bank of New York Mellon serves as custodian (''Custodian'') and transfer agent for the Fund. ALPS Portfolio Solutions Distributor, Inc. is the distributor of the Fund's Shares.

The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including the Fund's portfolio holdings and investment restrictions.[9]

A. The Exchange's Description of the Fund's Principal Investment Policies

According to the Exchange, the investment objective of the Fund is to seek total return, with an emphasis on income as the source of that total return. The Fund will seek to achieve its investment objective by selling listed one-month put options on the SPDR® S&P 500® ETF Trust (''SPY''). SPY is an exchange-traded fund that seeks to provide investment results that, before expenses, correspond generally to the price and yield performance of the S&P 500® Index (''SPX'' or ''Index''). SPY holds a portfolio of the common stocks that are included in the SPX, with the weight of each stock in its portfolio substantially corresponding to the weight of that stock in the SPX. The Fund may also sell listed one-month put options directly on the SPX under certain circumstances (such as if those options have more liquidity and narrower spreads than options on SPY). SPY shares are listed on the Exchange and traded on national securities exchanges. SPX options are traded on the Chicago Board Options Exchange, and options on SPY are traded on national securities exchanges.

Each listed put option sold by the Fund will be an ''American-style'' option (*i.e.,* an option that can be exercised at the strike price at any time prior to its expiration). As the seller of a listed put option, the Fund will incur an obligation to buy SPY underlying the option from the purchaser of the option at the option's strike price, upon exercise by the option purchaser. If a listed put option sold by the Fund is exercised prior to expiration, the Fund will buy the SPY underlying the option at the time of exercise and at the strike price, and will hold SPY until the market close on expiration.[10]

The option premiums and cash (in respect of orders to create Shares in large aggregations known as ''Creation Units,'' as further described below) received by the Fund will be invested in an actively-managed portfolio of investment grade debt securities (''Collateral Portfolio'') at least equal in value to the Fund's maximum liability under its written options (*i.e.,* the strike price of each option). Investment grade debt securities are those rated ''Baa'' equivalent or higher by a nationally recognized statistical rating organization (''NRSROs''), or are unrated securities that the Sub-Adviser believes are of comparable quality. These investment grade debt securities will include Treasury bills (short-term U.S. government debt securities), corporate bonds, commercial paper, mortgage-backed securities (''MBS''), asset-backed securities (''ABS''), and notes issued or guaranteed by federal agencies or U.S. government sponsored instrumentalities, such as the Government National Mortgage Administration, the Federal Housing Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation. It is expected that the average duration of these securities will not exceed six months, and the maximum maturity of any single security will not exceed one year.

Under normal market conditions,[11] substantially all of the Fund's net assets will be invested in options on SPY or SPX and in the Collateral Portfolio.

The Fund may invest up to 20% of its net assets in non-agency MBS and ABS in the aggregate. The Fund may seek to obtain exposure to U.S. agency mortgage pass-through securities primarily through the use of ''to-be-announced'' or ''TBA transactions.'' According to the Exchange, ''TBA'' refers to a commonly used mechanism for the forward settlement of U.S. agency mortgage pass-through securities and not to a separate type of mortgage-backed security. Most transactions in mortgage pass-through securities occur through the use of TBA transactions. TBA transactions are generally conducted in accordance with widely-accepted guidelines that establish commonly observed terms and conditions for execution, settlement and delivery. In a TBA transaction, the buyer and seller decide on general trade parameters, such as agency, settlement date, par amount, and price. The actual pools delivered are generally determined two days prior to settlement date. The Fund will enter into TBA transactions only with established counterparties (such as major broker-dealers) and the Sub-Adviser will

[7] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). The Exchange states that the Trust filed with the Commission a registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act'') and under the 1940 Act relating to the Fund (File Nos. 333–148826 and 811–22175) (''Registration Statement'') on January 6, 2015. In addition, the Exchange represents that the Trust has obtained certain exemptive relief under the1940 Act. *See* Investment Company Act Release No. 30553 (June 11, 2013) (File No. 812–13884).

[8] The Exchange represents that the Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to that broker-dealer regarding access to information concerning the composition of or changes to the Fund's portfolio. The Exchange further represents that, in the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser or any new adviser or sub-adviser, as the case may be, will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio.

[9] The Commission notes that additional information regarding the Fund, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of net asset value (''NAV''), distributions, and taxes, among other things, can be found in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* notes 3 and 7, respectively.

[10] The Fund may also sell put options on the SPX directly under certain circumstances (such as if such options have more liquidity and narrower spreads than options on SPY) resulting in lower transaction costs than options on SPY. The puts are struck at-the-money (*i.e.,* with a strike price that is equal to the market price of the underlying SPY) and are typically sold on a monthly basis, usually on the third Friday of the month (the ''roll date'').

[11] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity, options or fixed income markets or the financial markets generally; events or circumstances causing a disruption in market liquidity or orderly markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

monitor the creditworthiness of such counterparties.[12]

According to the Exchange, every month, the options sold by the Fund will be settled by delivery at expiration or will expire with no value, and new option positions will be established while the Fund sells any units of SPY it owns as a result of such settlements or of the Fund's prior option positions having been exercised. [13] The Exchange states that this monthly cycle likely will cause the Fund to have frequent and substantial turnover in its option positions. If the Fund receives additional inflows (and issues more Shares in ''Creation Unit'' size during a one-month period), the Fund will sell additional listed put options, which will be exercised or expire at the end of such one-month period. Conversely, if the Fund redeems Shares in Creation Unit size during a monthly period, the Fund will terminate the appropriate portion of the options it has sold.

With respect to no more than 20% of the Fund's assets, the Fund may engage in certain opportunistic ''put spread'' and ''call spread'' strategies. Specifically, when the Sub-Adviser believes the SPX (and thus SPY) will rise or not decline in value, the Fund may engage in ''put spreads'' whereby the Fund will buy back certain of the written put options that are out of the money (*i.e.,* the strike price of the put option is lower than the market price of the underlying SPY) prior to expiration in order to sell new put options that are less out of the money. Similarly, the Fund may buy back certain of its written put options prior to expiration in order to sell new longer-dated options that will remain open past the one-month period of the original option. Conversely, when the Sub-Adviser believes the SPX will decline in value, the Fund may engage in ''call spreads'' whereby the Fund will sell call options that are in-the-money (*i.e.,* the strike price of the call option is lower than the market price of the underlying SPY) and buy back less in-the-money call options. The Sub-Adviser may employ a variant of this call spread strategy whereby the Fund buys more calls than it sells (as long as the Fund receives a net premium on the transactions). This may enable the Fund to perform better when the SPX (and thus SPY) experiences gains well above the strike price of the calls bought by the Fund. However, even if the Fund engages in such call spreads, a declining SPX (and thus SPY) will significantly detract from Fund performance (given the Fund's principal strategy of selling put options on SPY).

B. The Exchange's Description of the Fund's Non-Principal Investment Policies

While, under normal market conditions, substantially all of the Fund's net assets will be invested in options on SPY or SPX and in the Collateral Portfolio, the Fund may invest its remaining assets in other securities and financial instruments, as described below. The Fund may invest its remaining assets in any one or more of the following instruments: money market instruments (as described below), in addition to those in which the Fund invests as part of the Collateral Portfolio, and including repurchase agreements or other funds that invest exclusively in money market instruments; convertible securities; structured notes (notes on which the amount of principal repayment and interest payments are based on the movement of one or more specified factors, such as the movement of a particular stock or stock index); forward foreign currency exchange contracts; swaps; over-the-counter (''OTC'') options on SPY or on the S&P 500 Index; and futures contracts and options on futures contracts, as described further below. Swaps, options, and futures contracts may be used by the Fund in seeking to achieve its investment objective and in managing cash flows. The Fund may also invest in money market instruments or other short-term fixed income instruments as part of a temporary defensive strategy to protect against temporary market declines.

The Fund may invest in high-quality money market instruments on an ongoing basis to provide liquidity. The instruments in which the Fund may invest include: (i) Short-term obligations issued by the U.S. Government; [14] (ii) negotiable certificates of deposit (''CDs''), fixed time deposits, and bankers' acceptances of U.S. and foreign banks and similar institutions; [15] (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's or, if unrated, of comparable quality as determined by the Adviser; (iv) repurchase agreements; [16] and (v) money market mutual funds.

The Fund may enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date, and interest payment and have the characteristics of borrowing. The securities purchased with the funds obtained from the agreement and securities collateralizing the agreement will have maturity dates no later than the repayment date.

The Fund may invest in the securities of other investment companies (including money market funds), subject to applicable restrictions under the 1940 Act.

To the extent the Fund utilizes futures and options on futures, the Fund will utilize U.S. exchange-traded futures contracts on the S&P 500 Index and U.S. exchange-traded options on futures contracts on the S&P 500 Index. The Fund may utilize such options on futures contracts as a hedge against changes in value of its portfolio securities, or in anticipation of the purchase of securities, and may enter into closing transactions with respect to such options to terminate existing positions.

To the extent the Fund enters into swap agreements, the Fund will enter into swap agreements based on the S&P 500 Index.

The Fund may invest in investment grade debt obligations traded in the U.S. Such debt obligations include, among others, bonds, notes, debentures, and variable rate demand notes. In choosing corporate debt securities on behalf of the Fund, the Sub-Adviser may consider (i) general economic and financial conditions; and (ii) the specific issuer's (a) business and management, (b) cash flow, (c) earnings coverage of interest and dividends, (d) ability to operate

[12] The Fund intends to invest cash pending settlement of any TBA transactions in money market instruments, repurchase agreements, commercial paper (including asset-backed commercial paper), or other high-quality, liquid short-term instruments, which may include money market funds affiliated with the Adviser or Sub-Adviser.

[13] The Fund may hold U.S. exchange-listed equity securities, generally shares of SPY, for temporary periods upon settlement or exercise of the options sold by the Fund.

[14] Obligations issued or guaranteed by the U.S. Government, its agencies and instrumentalities include bills, notes, and bonds issued by the U.S. Treasury, as well as ''stripped'' or ''zero coupon'' U.S. Treasury obligations representing future interest or principal payments on U.S. Treasury notes or bonds.

[15] CDs are short-term negotiable obligations of commercial banks. Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Banker's acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

[16] Repurchase agreements may be characterized as loans secured by the underlying securities. The Fund may enter into repurchase agreements with (i) member banks of the Federal Reserve System having total assets in excess of $500 million and (ii) securities dealers (''Qualified Institutions''). The Adviser will monitor the continued creditworthiness of Qualified Institutions.

under adverse economic conditions, (e) fair market value of assets, and (f) other considerations deemed appropriate.

The Fund, in the absence of normal market conditions, may invest up to 100% of its total assets in debt securities that are rated investment grade by an NRSRO or are unrated securities that the Sub-Adviser believes are of comparable quality.

The Fund may invest in securities that have variable or floating interest rates which are readjusted on set dates (such as the last day of the month or calendar quarter) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument.

The Fund may use delayed delivery transactions as an investment technique. Delayed delivery transactions, also referred to as forward commitments, involve commitments by the Fund to dealers or issuers to acquire or sell securities at a specified future date beyond the customary settlement for such securities. These commitments may fix the payment price and interest rate to be received or paid on the investment. The Fund may purchase securities on a delayed delivery basis to the extent that it can anticipate having available cash on the settlement date. Delayed delivery agreements will not be used as a speculative or leverage technique. The Fund also may purchase when-issued securities.

In addition, the Fund may invest in zero-coupon or pay-in-kind securities. These securities are debt securities that do not make regular cash interest payments. Zero-coupon securities are sold at a deep discount to their face value. Pay-in-kind securities pay interest through the issuance of additional securities.

C. The Exchange's Description of the Fund's Investment Restrictions

The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser.[17] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company under subchapter M of the Internal Revenue Code. The Exchange further represents that the Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.[18]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto, is consistent with section 6(b)(5) of the Exchange Act,[20] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with section 11A(a)(1)(C)(iii) of the Exchange Act,[21] which sets forth the finding of Congress 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 available via the Consolidated Tape Association high-speed line and from the Exchange. The approximate value of the Fund's investments on a per-Share basis, the Indicative Intra-Day Value (''IIV''), which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be disseminated by one or more major market data vendors every 15 seconds during the Exchange's Core Trading Session.[22] On each business day, before commencement of trading in the Shares in the Core Session on the Exchange, the Fund will disclose on its Web site the portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[23]

The NAV per Share will be calculated by the Custodian and determined as of the close of the regular trading session on the New York Stock Exchange (ordinarily 4:00 p.m., Eastern time) (''NYSE Close'') on each day that such exchange is open. Information regarding market price and trading volume of the

[17] Rule 144A securities are securities that, while privately placed, are eligible for purchase and resale pursuant to Rule 144A under the Securities Act. This rule permits certain qualified institutional buyers, such as the Fund, to trade in privately placed securities even though such securities are not registered under the Securities Act. The Sub-Adviser, under supervision of the Board, will consider whether securities purchased under Rule 144A are illiquid and thus subject to the Fund's restriction on illiquid assets. Determination of whether a Rule 144A security is liquid or not is a question of fact. In making this determination, the Sub-Adviser will consider the trading markets for the specific security taking into account the unregistered nature of a Rule 144A security. In addition, the Sub-Adviser could consider the (i) frequency of trades and quotes; (ii) number of dealers and potential purchasers; (iii) dealer undertakings to make a market; and (iv) nature of the security and of market place trades (for example, the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer). The Sub-Adviser will also monitor the liquidity of Rule 144A securities, and if, as a result of changed conditions, the Sub-Adviser determines that a Rule 144A security is no longer liquid, the Sub-Adviser will review the Fund's holdings of illiquid securities to determine what, if any, action is required to assure that the Fund complies with its restriction on investment of illiquid securities.

[18] Investments in derivative instruments by the Fund will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To limit the potential risk associated with transactions in derivatives, the Fund will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures that will established by the Trust's Board of Trustees (''Board'') and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures will be adopted consistent with section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund's Shares to be more volatile than if they had not been leveraged.

[19] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[22] According to the Exchange, several major market data vendors display or make widely available IIVs taken from CTA or other data feeds.

[23] The Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index, or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value, or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Intra-day and closing price information regarding exchange-traded options (including options on futures) and futures will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding debt securities, money market instruments, convertible securities, structured notes, forward foreign currency exchange contracts, swaps, repurchase agreements, reverse repurchase agreements, US government securities, MBS and ABS, mortgage pass-throughs, variable or floating interest rate securities, when-issued securities, delayed delivery securities, zero-coupon securities, and pay-in-kind securities also will be available from major market data vendors. Price information for non-exchange-traded investment company securities will be available from major market data vendors and from the Web site of the applicable investment company. In addition, quotation and last-sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. The S&P 500 Index value is available from major market data vendors.

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. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund 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.[24] Trading in the Shares also will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer, and has implemented a ''fire wall'' with respect to that broker-dealer regarding access to information concerning the composition or changes to the Fund's portfolio.[25] Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders (''ETP Holders'') in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[26]

The Exchange represents that it deems the Shares to be equity 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 also made the following representations:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(4) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, other exchange-traded equity securities, exchange-traded investment company securities, futures contracts, and exchange-traded options contracts with other market and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information in the Shares, other exchange-traded equity securities, exchange-traded investment company securities, futures contracts, and exchange-traded options contracts from those markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, other exchange-traded equity securities, exchange-traded investment company securities, futures contracts, and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[27] The Exchange states that FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

(5) Prior to the commencement of trading of Shares in the Fund, the Exchange will inform its ETP Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (i) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (ii) 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

[24] These may include: (1) the extent to which trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[25] *See supra* note 8. The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser, Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless that investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[26] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[27] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

trading the Shares; (iii) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV or Index value will not be calculated or publicly disseminated; (iv) how information regarding the IIV, the Disclosed Portfolio, and the Index value will be disseminated; (v) 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 (vi) trading information.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[28] as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A restricted securities deemed illiquid by the Adviser or Sub-Adviser, consistent with Commission guidance.

(8) The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

(9) To the extent the Fund utilizes futures and options on futures, the Fund will utilize U.S. exchange-traded futures contracts on the S&P 500 Index and U.S. exchange-traded options on futures contracts on the S&P 500 Index. To the extent the Fund enters into swap agreements, the Fund will enter into swap agreements based on the S&P 500 Index.

(10) Not more than 20% of the net assets of the Fund will be invested in MBS and ABS in the aggregate.

(11) A minimum of 100,000 Shares for 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, including those set forth above and in the Notice, and Amendment Nos. 1 and 3 to the proposed rule change. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto, is consistent with section 6(b)(5) of the Act[29] and the rules and regulations thereunder applicable to a national securities exchange.

[28] 17 CFR 240.10A–3.

[29] 15 U.S.C. 78f(b)(5).

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,[30] that the proposed rule change (SR–NYSEArca–2015–23), as modified by Amendment Nos. 1 and 3 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15452 Filed 6–23–15; 8:45 am]

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[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75248; File No. SR–NYSE–2015–02]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual To Exempt Early Stage Companies From Having To Obtain Shareholder Approval Before Issuing Shares for Cash to Related Parties, Affiliates of Related Parties or Entities In Which a Related Party has a Substantial Interest

June 18, 2015.

On April 16, 2015, New York Stock Exchange (''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend sections 312.03(b) and 312.04 of the NYSE Listed Company Manual (''Manual'') to exempt early stage companies[3] from having to obtain shareholder approval before issuing shares for cash to related parties, affiliates of related parties or entities in which a related party has a substantial interest. A related party is defined under section 312.04 of the Manual as a director, officer or substantial security holder of a company. The proposed rule change was published for comment in the **Federal Register** on May 6, 2015.[4] The Commission received no comment letters on the proposal.

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 20, 2015.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the Exchange's proposal, as described above.

Accordingly, pursuant to section 19(b)(2) of the Act,[6] the Commission designates August 4, 2015, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NYSE–2015–02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15456 Filed 6–23–15; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange proposes to define the term ''Early Stage Company'' to mean ''a company that has not reported revenues greater than $20 million in any two consecutive fiscal years since its incorporation and any Early Stage Company will lose that designation at any time after listing on the Exchange that it files an annual report with the SEC in which it reports two consecutive fiscal years in which it has revenues greater than $20 million in each year.''

[4] *See* Securities Exchange Act Release No. 74849 (April 30, 2015), 80 FR 26118.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75245; File No. SR–CBOE–2015–026]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change Relating to Rules 6.74A and 6.74B

June 18, 2015.

I. Introduction

On March 6, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules regarding the solicitation of Market-Makers as the contra party to an agency order entered into the Exchange's Automated Improvement Mechanism (''AIM'') and Solicitation Auction Mechanism (''SAM'') auctions. The proposed rule change was published for comment in the **Federal Register** on March 23, 2015.[3] On May 4, 2015, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to June 21, 2015.[4] The Commission received no comment letters on the proposed rule change. This order institutes proceedings under section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposal

A CBOE Trading Permit Holder (''Initiating TPH'') may electronically execute an order it represents as agent (''Agency Order'') against principal interest or against a solicited order, by submitting the Agency Order for electronic execution into the AIM pursuant to CBOE Rule 6.74A. Also, an Initiating TPH may electronically execute certain Agency Orders against solicited orders, by submitting the Agency Order for electronic execution into the SAM pursuant to CBOE Rule 6.74B. CBOE rules currently require that any solicited orders submitted by an Initiating TPH into the AIM[6] or SAM[7] (together, the ''Auctions'') to trade against an Agency Order may not be for the account of a Market-Maker assigned to the option class.[8] The Exchange proposes to eliminate from its rules the restriction against soliciting Market-Makers assigned to an options class as the contra party in the Auctions.

According to the Exchange, the current rules act to limit an Initiating TPH from access to liquidity that the Exchange believes should otherwise be available.[9] Because a TPH initiating an AIM or SAM auction in an option class cannot solicit contra orders from Market-Makers assigned to the option class, the Exchange proposes to delete the rule language imposing this prohibition, which it believes will allow the TPH to access the additional liquidity that these market making firms can provide.[10] The Exchange believes the proposed rule change is a reasonable modification designed to provide additional flexibility for the Exchange's TPHs to obtain executions on behalf of their customers and to provide CBOE Market-Makers assigned to a given option class with the same opportunity as other solicited parties to participate in the auction process through means of solicited orders submitted by the Initiating TPH.[11] Additionally, the Exchange does not believe the proposed rule change will deplete the liquidity available through Auctions. Instead, the Exchange believes that by allowing more individuals to participate in the Auction process (*i.e.,* through solicitation), liquidity will increase.[12]

The Exchange further notes that a Market-Maker that is solicited to trade against an Agency Order in a class in which the Market-Maker is appointed would be required to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.18 (Prevention of the Misuse of Material, Nonpublic Information), and 6.9 (Solicited Transactions) (as well as all other Exchange rules). The Exchange states that a Market-Maker would still be prohibited from, for example, learning (via solicitation) that a large order is being sent to the Exchange and therefore widening its quotes. Moreover, the Exchange argues that because upon entry an Auction order is ''stopped'' for its full quantity at the contra order's price, the price of the trade would not be impacted if a Market-Maker were to widen its quotes. The Exchange also believes that because many classes on the Exchange have a number of Market-Makers appointed, the widening of quotes by one Market-Maker would likely have limited impact on the NBBO.[13] Additionally, the Exchange does not believe that the proposed rule change would have an adverse effect on quoting because in order to execute against order flow outside of the Auctions or on other exchanges, Market Makers will have to continue to quote aggressively.[14]

The proposed rule change also would provide that ''a Market-Maker submitting a solicited order to execute against a particular Agency Order may not modify its pre-programmed response to Request for Responses based on information regarding the particular Agency Order or solicited order.''[15] The Exchange believes that this rule language would prohibit a Market-Maker from using any information regarding a particular Agency Order or the Market-Maker's solicited order for purposes of modifying the Market-Maker's response to an Auction Request for Responses.[16]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74519 (March 17, 2015), 80 FR 15264 (''Notice'').

[4] *See* Securities Exchange Act Release No. 74862 (May 4, 2015), 80 FR 26599 (May 8, 2015).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* CBOE Rule 6.74A.

[7] *See* CBOE Rule 6.74B. The Exchange notes that the SAM Auction is currently deactivated. *See CBOE Regulatory Circular* RG14–076—Deactivation of the Solicitation Auction Mechanism (SAM) (May 16, 2014).

[8] *See* Interpretation and Policy .04 to CBOE Rule 6.74A and Interpretation and Policy .03 to CBOE Rule 6.74B.

[9] The Exchange argues that the current rules effectively prohibit small market making firms from providing liquidity in the form of contra orders, whereas the current rules neither prohibit the proprietary arm of a global firm from submitting a contra order in these Auctions nor prohibit a global firm's market making operation from responding to an Auction in which the proprietary desk has submitted a contra order. Additionally, CBOE states that if two Market-Makers are nominees of the same firm—one appointed to a class on CBOE and the other appointed in the same class on another exchange (PHLX for example)—the current rules allow the PHLX Market-Maker to be solicited to participate on an AIM order and the CBOE Market-Maker to respond to the AIM auction. *See* Notice, *supra* note 3, at 15265.

[10] *See id.*

[11] If CBOE Market-Makers assigned to a given option class cannot be solicited, they will not be able to obtain the favorable priority status when trading against Agency Orders executed through the Auctions, while all other parties solicited by the Initiating TPH may have such priority status.

[12] *See* Notice, *supra* note 3, at 15265.

[13] *See id.*

[14] *See id.*

[15] *See id.* at 15266.

[16] However, the Exchange states that a Market-Maker's quotes may change for many reasons other than an Agency Order or the Market-Maker's solicited order (*e.g.,* a non-exclusive list of reasons that a Market-Maker may choose to adjust the size and/or price of quotes, irrespective of an Agency Order or a Market-Maker's solicited order, is a change in the price of the underlying, the Market-Maker's inventory, or interest rates), and according to the Exchange those unrelated changes would not be prohibited under the proposed rule change. The Exchange also notes that this language is not intended to prohibit a Market-Maker from providing

III. Proceedings to Determine Whether to Approve or Disapprove SR–CBOE–2015–026 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to section 19(b)(2)(B) of the Act [17] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

As discussed above, the Exchange proposes to amend CBOE Rules 6.74A and 6.74B, in order to permit a Market-Maker assigned to an option class to be solicited as the contra party to an Agency Order in that class on the Exchange's Auctions. The Commission believes that the proposal raises important issues that warrant further public comment and Commission consideration. Specifically, the Commission believes that proceedings are appropriate to consider, among other matters, the impact of the proposal on competition in the Auctions, incentives for Market-Makers to continue to quote aggressively, and CBOE's ability to deter potential abuses involving the non-public information obtained through the solicitation process.

The prohibition on the solicitation of Market-Makers assigned to an option class as the contra party to an Agency Order in the Auctions has been in place on CBOE since the AIM was adopted in 2006 [18] and the SAM was adopted in 2008.[19] In addition, the Commission has noted that the same prohibition, contained in the rules of another SRO, was designed to permit the price improvement auction and solicitation mechanism to remain mechanisms for exposing solicited transactions to the competition of the marketplace.[20] Because the current proposal would remove this prohibition, it raises questions as to whether the proposal may undermine the quality of competition in the Auctions. For example, the Commission notes that responses to an AIM Request for Responses (''RFR'') broadcast may only be submitted by Market-Makers with an appointment in the relevant option class and TPH's acting as agent for orders resting at the top of the Exchange's book opposite the Agency Order.[21] The proposed rule change thus raises concerns that the quality of the Auctions may degrade to the extent the number of potential responders is reduced because one of the responders is now the solicited party. Although the Exchange argues that its proposal will lead to increased liquidity in the Auctions,[22] the Exchange has not provided any data to support its arguments.

Additionally, because solicited Market-Makers may receive material non-public information regarding an Agency Order as part of the solicitation process, the proposed rule change raises concerns that Market-Makers may alter their quoting behavior by, for example, widening their quotes when learning (*i.e.,* through solicitation) that a large order is being sent to the Exchange. In the CBOE AIM Approval Order, the Commission noted that the prohibition against soliciting Market-Makers in the class to be the contra party to the Agency Order, as well as CBOE Rules limiting solicitation from members or nonmember customers or broker-dealers [23] and prohibiting members from engaging in acts or practices inconsistent with just and equitable principles of trade,[24] ''should permit members to solicit, in advance, the other side of an order, while providing for adequate disclosure of such orders to limit manipulation and abuse.'' [25] The Commission believes that proceedings are appropriate to consider whether the proposed rule that would prohibit a solicited Market-Maker from modifying its pre-programmed response to an RFR based on information regarding the particular Agency Order or solicited order is sufficient, in conjunction with other Exchange rules, to address concerns about the potential misuse of non-public information obtained through the solicitation process.

Pursuant to section 19(b)(2)(B) of the Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with section 6(b)(5) of the Act,[27] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission is also instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with section 6(b)(8) of the Act,[28] which requires that the rules of a national securities exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposal is inconsistent with sections 6(b)(5) [29] and 6(b)(8) [30] or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[31] any request for an

multiple responses to a Request for Responses. *See id.*

[17] 15 U.S.C. 78s(b)(2)(B).

[18] *See* Securities Exchange Act Release No. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR–CBOE–2005–60) (''CBOE AIM Approval Order'').

[19] *See* Securities Exchange Act Release No. 57610 (April 3, 2008), 73 FR 19535 (April 10, 2008) (SR–CBOE–2008–14).

[20] *See* Securities Exchange Act Release No. 54644 (October 23, 2006), 71 FR 63374, 63375 (October 30, 2006) (SR–ISE–2004–17).

[21] *See* CBOE Rule 6.74A(b)(1)(D)–(E).

[22] *See* Notice, *supra* note 3, at 15265.

[23] *See* CBOE Rule 6.9.

[24] *See* CBOE Rule 4.1.

[25] *See* CBOE AIM Approval Order, supra note 21, at 7091.

[26] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Exchange Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *See id.*

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(8).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] 17 CFR 240.19b–4.

opportunity to make an oral presentation.[32]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by July 15, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 29, 2015. In light of the concerns raised by the proposed rule change, as discussed above, the Commission invites additional comment on the proposed rule change as the Commission continues its analysis of the proposed rule change's consistency with sections 6(b)(5) and 6(b)(8),[33] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission invites comment on the following:

1. What are commenters' views on how CBOE's proposal could impact the quality of the Auctions, internalization rates, liquidity, and competition, within or outside of the Auctions?

2. What are commenters' views on the potential impact of CBOE's proposal on the quoting behavior of Market-Makers?

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–CBOE–2015–026 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–026 and should be submitted by July 15, 2015. Rebuttal comments should be submitted by July 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15453 Filed 6–23–15; 8:45 am]

BILLING CODE 8011–01–P

[32] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[33] 15 U.S.C. 78f(b)(5), (b)(8).

[34] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75246; File No. SR–FINRA–2015–018]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Series 4 Examination Program

June 18, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''SEA'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is filing revisions to the content outline and selection specifications for the Registered Options Principal (Series 4) examination program.[5] The proposed revisions update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Registered Options Principal. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised content outline is attached.[6] The Series 4 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 4 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank for review. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the revised content outline is attached to the filing, not to this Notice. The content outline is available as part of the filing on FINRA's Web site.

[7] 17 CFR 240.24b–2.

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(g)(3) of the Act [8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

NASD Rule 1022(f) requires members that engage in, or that intend to engage in transactions in options with the public to have at least one Registered Options Principal. Further, every person engaged in the supervision of options sales practices with the public, including a person designated pursuant to FINRA Rule 3110(a)(2) must be registered as a Registered Options Principal.[9] A person registered solely as a Registered Options Principal is not qualified to function in a principal [10] capacity with responsibility over any area of business activity that is not stated above.

A Registered Options Principal must, prior to or concurrent with such registration, be or become qualified pursuant to the NASD Rule 1030 Series, as either a General Securities Representative (Series 7) [11] or a Corporate Securities Representative (Series 62) and an Options Representative (Series 42).

In consultation with a committee of industry representatives, FINRA recently undertook a review of the Series 4 examination program. As a result of this review, FINRA is proposing to make revisions to the content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Registered Options Principal. FINRA also is proposing to make changes to the format of the content outline.

Current Content Outline

The current content outline is divided into three sections. The following are the three sections and the number of questions associated with each of the sections, denoted Section 1 through Section 3:

1. Options Investment Strategies, 34 questions;

2. Supervision of Sales Activities and Trading Practices, 75 questions; and

3. Supervision of Employees, Business Conduct, and Recordkeeping and Reporting Requirements, 16 questions.

Each section also includes the applicable laws, rules and regulations associated with that section. The current content outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Proposed Revisions

FINRA is proposing to divide the content outline into six major job functions that are performed by a Registered Options Principal. The following are the six major job functions, denoted Function 1 through Function 6, with the associated number of questions:

Function 1: Supervise the Opening of New Options Accounts, 21 questions;

Function 2: Supervise Options Account Activities, 25 questions;

Function 3: Supervise General Options Trading, 30 questions;

Function 4: Supervise Options Communications, 9 questions;

Function 5: Implement Practices and Adhere to Regulatory Requirements, 12 questions; and

Function 6: Supervise Associated Persons and Personnel Management Activities, 28 questions.

FINRA is proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by a Registered Options Principal. The questions on the revised Series 4 examination will place greater emphasis on key tasks such as supervision of registered persons, sales practices and compliance.

Each function also includes specific tasks describing activities associated with performing that function. There are four tasks (1.1–1.4) associated with Function 1; four tasks (2.1–2.4) associated with Function 2; four tasks (3.1–3.4) associated with Function 3; four tasks (4.1–4.4) associated with Function 4; two tasks (5.1–5.2) associated with Function 5; and four tasks (6.1–6.4) associated with Function 6.[12] By way of example, one such task (Task 4.2) is review options retail communications and determine appropriate approval.[13] Further, the content outline lists the knowledge required to perform each function and associated tasks (*e.g.,* types of retail communications, required approvals).[14] In addition, where applicable, the content outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks. These include the applicable FINRA Rules (*e.g.,* FINRA Rule 2220), NASD Rules (*e.g.,* NASD Rule 2711(i)) and SEC rules (*e.g.,* Rule 135a under the Securities Act of 1933).[15] FINRA conducted a job analysis study of Registered Options Principals, which included the use of a survey, in developing each function and associated tasks and updating the required knowledge set forth in the revised content outline. The functions and associated tasks, which appear in the revised content outline for the first time, reflect the day-to-day activities of a Registered Options Principal.

As noted above, FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (*e.g.,* NASD Rule 2310 (Recommendations to Customers (Suitability)), NASD Rule 2212 (Telemarketing) and NASD Rule 3110 (Books and Records) were adopted as FINRA Rule 2111 (Suitability), FINRA Rule 3230 (Telemarketing) and

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] NASD Rule 1022(f) also includes additional requirements applicable to Registered Options Principals engaged in securities futures activities. The rule generally provides that prior to the introduction of an appropriate qualification examination that addresses security futures products, a Registered Options Principal is required to complete a firm-element continuing education program that addresses security futures products and a principal's responsibilities for security futures before such person can supervise security futures activities.

[10] The term principal is defined in NASD Rule 1021(b) (Definition of a Principal).

[11] Registration as a United Kingdom Securities Representative or Canada Securities Representative is an acceptable alternative prerequisite to the General Securities Representative prerequisite.

[12] *See* Exhibit 3a, Outline Pages 6–22. *See* footnote 6 regarding availability of the content outline.

[13] *See* Exhibit 3a, Outline Page 15.

[14] *See* Exhibit 3a, Outline Page 15.

[15] *See* Exhibit 3a, Outline Page 15.

FINRA Rule 4510 Series (Books and Records Requirements), respectively).[16]

FINRA is proposing similar changes to the Series 4 selection specifications and question bank.

Finally, FINRA is proposing to make changes to the format of the content outline, including the preface, sample questions and reference materials. Among other changes, FINRA is proposing to: (1) Add a table of contents; [17] (2) provide more details regarding the purpose of the examination; [18] (3) provide more details on the application procedures; [19] (4) provide more details on the development and maintenance of the content outline and examination; [20] (5) explain that the passing scores are established by FINRA staff, in consultation with a committee of industry representatives, using a standard setting procedure, and that a statistical adjustment process known as equating is used in scoring exams; [21] and (6) note that each candidate will receive a score report at the end of the test session, which will indicate a pass or fail status and include a score profile listing the candidate's performance on each major content area covered on the examination.[22]

The number of questions on the Series 4 examination will remain at 125 multiple-choice questions,[23] and candidates will have 195 minutes to complete the examination. The test time will change from 180 minutes to 195 minutes because pretest items increased from 5 items to 10 items. Currently, a score of 70 percent is required to pass the examination. The passing score will change to 72 percent with the revised Series 4 examination program.

Availability of Content Outline

The current Series 4 content outline is available on FINRA's Web site, at *www.finra.org/brokerqualifications/exams.* The revised Series 4 content outline will replace the current content outline on FINRA's Web site.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA proposes to implement the revised Series 4 examination program on September 28, 2015. FINRA will announce the proposed rule change and the implementation date in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 4 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[24] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[25] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by a Registered Options Principal.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by a Registered Options Principal and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more efficient and effective.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f)(1) of Rule 19b–4 thereunder.[27] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2015–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–018. 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

[16] *See* Rule Conversion Chart, available at *http://www.finra.org/industry/finra-rule-consolidation.*

[17] *See* Exhibit 3a, Outline Page 2.

[18] *See* Exhibit 3a, Outline Page 3.

[19] *See* Exhibit 3a, Outline Page 3.

[20] *See* Exhibit 3a, Outline Page 4.

[21] *See* Exhibit 3a, Outline Page 5.

[22] *See* Exhibit 3a, Outline Page 5.

[23] Consistent with FINRA's practice of including ''pretest'' items on certain qualification examinations, which is designed to ensure that new examination items meet acceptable testing standards prior to use for scoring purposes, the examination includes 10 additional, unidentified pretest items that do not contribute towards the candidate's score. Therefore, the examination actually consists of 135 items, 125 of which are scored. The 10 pretest items are randomly distributed throughout the examination.

[24] 15 U.S.C. 78*o*–3(b)(6).

[25] 15 U.S.C. 78*o*–3(g)(3).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(1).

Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–018, and should be submitted on or before July 15, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15454 Filed 6–23–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75243; File No. SR–BATS–2015–45]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

June 18, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] of the Exchange pursuant to Rule 15.1(a) and (c) (''Fee Schedule'') to adopt fees applicable to Members of the Exchange's equity options platform (''BATS Options'') for the use of a communication and routing service known as BATS Connect. Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt fees applicable to Members of BATS Options for the use of a communication and routing service known as BATS Connect.

On May 26 [sic], 2015, the Exchange filed a proposed rule change with the Commission to adopt a communication and routing service known as BATS Connect.[6] The Exchange now proposes to adopt fees related to the use of BATS Connect that are equal to the fees charged for an identical service, also called BATS Connect, offered by the Exchange's affiliate, EDGX.[7] The Exchange notes that BATS Connect will be offered by all of the Exchange's affiliated equity exchanges but that the fees are also appropriately set forth on the fee schedule of BATS Options because BATS Connect will be offered to all Exchange Members, including Members that participate primarily or exclusively on BATS Options.

BATS Connect is offered by the Exchange on a voluntary basis in a capacity similar to a vendor. In sum, BATS Connect is a communication service that provides subscribers an additional means to receive market data from and route orders to any destination connected to the Exchange's network. BATS Connect does not provide any advantage to subscribers for connecting to the Exchange's affiliates[8] as compared to other method of connectivity available to subscribers. The servers of the subscriber need not be located in the same facilities as the Exchange in order to subscribe to BATS Connect. Subscribers may also seek to utilize BATS Connect in the event of a market disruption where other alternative connection methods become unavailable.

The Exchange will charge a monthly connectivity fee to subscribers utilizing BATS Connect to route orders to other exchanges and broker-dealers that are connected to the Exchange's network. The amount of the connectivity fee varies based solely on the bandwidth selected by the subscriber. Specifically, the Exchange proposes to charge $350 for 1 Mb, $700 for 5 Mb, $950 for 10 Mb, $1,500 for 25 Mb, $2,500 for 50 Mb, and $3,500 for 100 Mb.

BATS Connect would also allow subscribers to receive market data feeds from the exchanges connected to the Exchange's network. In such case, the subscriber would pay the Exchange a connectivity fee, which varies and is based solely on the amount of bandwidth required to transmit the selected data product to the subscriber. The proposed connectivity fees are set forth in the Exhibit 5 attached hereto and range from no charge to $11,500 based on the market data product the subscriber selects.

The Exchange also proposes to adopt a discounted fee of $4,160 per month for subscribers who purchase connectivity to a bundle of select market data products. The following market data

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] *See* file no. SR–BATS–2015–40.

[7] *See* the EDGX fee schedule *available at http://batstrading.com/support/fee_schedule/edgx/. See also* Securities Exchange Act Release No. 73780 (December 8, 2014), 79 FR 73942 (December 12, 2014) (SR–EDGX–2014–28) *and* file no. SR–EDGX–2015–27.

[8] The Exchange's affiliated exchanges are EDGX, EDGA Exchange, Inc. (''EDGA''), and BATS Y-Exchange, Inc. (''BYX''). The Exchange understands that its affiliated exchanges intend to file identical proposed rule changes to adopt the fees for the BATS Connect service with the Commission. The Exchange also notes that its affiliated exchanges have also filed proposed rule changes with the Commission to adopt rules describing the BATS Connect service.

products would be included in the bundle: UQDF/UTDF/OMDF, CQS/CTS, Nasdaq TotalView, Nasdaq BX TotalView, Nasdaq PSX TotalView, NYSE ArcaBook, NYSE MKT OpenBook Ultra, and BBS/TTDS. Absent the discount, a subscriber purchasing connectivity through BATS Connect for each of these market data products would pay a total monthly fee of $5,200. As proposed, a subscriber who purchases connectivity to each of the above market data products would be charged a monthly fee of $4,160, which represents a 20% discount. The subscribers would pay any fees charged by the exchange providing the market data feed directly to that exchange.

The Exchange notes that it will not charge a fee to subscribers utilizing BATS Connect to route orders to or receive market data products from the Exchange's affiliates, EDGX, EDGA, and BYX. BATS Connect provides subscribers a means to access exchanges and market centers on the Exchange's network. In all cases, BATS Connect subscribers would continue to be liable for the necessary fees charged by that exchange or market center, including any required connectivity fees. Market participants who chose a method other than BATS Connect to connect to another exchange or market center would also pay any required connectivity fees directly to that exchange or market center. Likewise, BATS Connect subscribers would be liable for any connectivity fees charged by the Exchange's affiliate.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[9] in general, and furthers the objectives of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members.

The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,[11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities. First, the Exchange will charge a connectivity fee to subscribers utilizing BATS Connect to route orders to other exchanges and market centers that are connected to the Exchange's network, which varies based solely on the amount of bandwidth selected by the subscriber. The amounts of the connectivity fees are also reasonable as compared to similar fees charged by other exchanges. For purposes of order routing, the Exchange proposes to charge $350 for 1 Mb, $700 for 5 Mb, $950 for 10 Mb, $1,500 for 25 Mb, $2,500 for 50 Mb, and $3,500 for 100 Mb. The New York Stock Exchange, Inc. (''NYSE'') currently charges $300 for 1 Mb, $700 for 5 Mb, $900 for 10 Mb, $1,500 for 25 Mb, $2,000 for 50 Mb, and $2,600 for 100 Mb.[12] The Exchange notes that, overall, the connectivity fee for routing of orders to other market centers proposed by the Exchange is similar to that charged by the NYSE.

Second, with regard to utilizing BATS Connect to receive market data products from other exchanges, the Exchange would only charge subscribers a connectivity fee, the amount of which is based solely on the amount of bandwidth required to transmit that specific data product to the subscribers. The amounts of the connectivity fees are also reasonable as compared to similar fees charged by other exchanges. For example, for market data connectivity, the Nasdaq Stock Market LLC (''Nasdaq'') charges $1,412 per month for CQS/CTS data feed, and the Exchange proposes to charge $1,000 per month connectivity for CQS/CTS data feed.[13] The Exchange notes that, overall, the connectivity fee for receipt of other market centers' data feed proposed by the Exchange is similar to that charged by Nasdaq.

The Exchange believes it is reasonable to offer such discounted pricing to subscribers who purchase connectivity to a bundle of market data products as it would enable them to reduce their overall connectivity costs for the receipt of market data. As stated above, BATS Connect is offered and purchased on a voluntary basis and subscribers can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Moreover, the Exchange believes the proposed fees are reasonable and equitable because they continue to be based on the Exchange's costs to cover the amount of bandwidth required to provide connectivity to the select bundle of data feeds. The proposed fees will continue to allow the Exchange to recoup this cost, while providing subscribers with an alternative means to connect to the select bundle of data feeds at a discounted rate.

The subscribers would pay any fees: (i) charged by the exchange providing the market data feed directly to that exchange (ii) charged by a market center to which they routed an order and an execution occurred directly to that market center. The Exchange itself would not charge any additional fees.[14] BATS Connect is offered and purchased on a voluntary basis, in that neither the Exchange nor subscribers are required by any rule or regulation to make this product available. Accordingly, subscribers can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged.

Moreover, the Exchange believes the proposed fees are reasonable and equitable because they are based on the Exchange's costs to cover hardware, installation, testing and connection, as well as expenses involved in maintaining and managing the service. The proposed fees allow the Exchange to recoup these costs, while providing subscribers with an alternative means to connect to other exchange and market centers. The Exchange believes that the proposed fees are reasonable and equitable in that they reflect the costs and the benefit of providing alternative connectivity.

The Exchange also believes it is equitable and reasonable to provide BATS Connect to subscribers for no charge to route orders to or receive market data products from the Exchange's affiliates. BATS Connect provides subscribers a means to access exchanges and market centers on the Exchange's network. In all cases, BATS Connect subscribers would continue to be liable for the necessary fees charged by the Exchange, its affiliate, or another exchange or market center, including any required connectivity fees. As stated above, BATS Connect is offered and purchased on a voluntary basis, and subscribers and market participants may

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(4).

[12] *See* NYSE's SFTI Americas Product and Service List *available at http://www.nyxdata.com/docs/connectivity.*

[13] *See* Nasdaq Rule 7034 (setting forth Nasdaq's connectivity fees for receipt of third party market data products).

[14] The Exchange's rules and fees would not address the fees or manner of operation of any destination to which the subscriber asked that an order be routed.

choose an alternative method to connect to the Exchange, its affiliates, or another exchange or market center connected to the Exchange's network. Such other services may also offer at no charge connectivity to certain exchanges or a group of exchanges.[15] Therefore, the Exchange believes that the providing BATS Connect to subscribers at no charge to route orders to or receive market data products from the Exchange's affiliates is reasonable and equitable as they will continue to be liable to the Exchange or its affiliate for any required connectivity fees.

Lastly, the Exchange also believes that the proposed amendments to its fee schedule are non-discriminatory because they will apply uniformly to all subscribers. All subscribers that voluntarily select various service options will be charged the same amount for the same services. All subscribers have the option to select any connectivity option, and there is no differentiation among subscribers with regard to the fees charged for the service. Further, the benefits of selecting such services are the same for all subscribers, irrespective of whether their servers are located in the same facility as the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed fees for BATS Connect will result in any burden on competition. The proposed rule change is designed to provide subscribers with an alternative means to access other market centers on the Exchange's network if they choose or in the event of a market disruption where other alternative connection methods become unavailable. BATS Connect is not the exclusive method to connect to these market centers and subscribers may utilize alternative methods to connect to the product if they believe the Exchange's proposed pricing is unreasonable or otherwise. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 thereunder.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2015–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–45 and should be submitted on or before July 15, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–15451 Filed 6–23–15; 8:45 am]

BILLING CODE 8011–01–P

[15] *See* NYSE's SFTI Americas Product and Service List *available at http://www.nyxdata.com/docs/connectivity* (offering at no charge connectivity to the NYSE, NYSE MKT LLC, and NYSE Arca, Inc.).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2015–0039]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and an extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0039].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 24, 2015. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Substitution of Party Upon Death of Claimant—20 CFR 404.957(c)(4) and 416.1457(c)(4)—0960–0288. An administrative law judge (ALJ) may dismiss a request for a hearing on a pending claim of a deceased individual for Social Security benefits or Supplement Security Income (SSI) payments. Individuals who believe the dismissal may adversely affect them may complete Form HA–539, which allows them to request to become a substitute party for the deceased claimant. The ALJs and the hearing office support staff use this information from the HA–539 to: (1) Maintain a written record of request; (2) establish the relationship of the requester to the deceased claimant; (3) determine the substituted individual's wishes regarding an oral hearing or decision on the record; and (4) admit the data into the claimant's official record as an exhibit. The respondents are individuals requesting to be a substitute party for a deceased claimant.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–539	4,000	1	5	333

2. Continuation of Supplemental Security Income Payments for the Temporarily Institutionalized—Certification of Period and Need to Maintain Home—20 CFR 416.212(b)(1)—0960–0516. When SSI recipients (1) enter a public institution or (2) enter a private medical treatment facility with Medicaid paying more than 50 percent of expenses, SSA must reduce recipients' SSI payments to a nominal sum. However, if this institutionalization is temporary (defined as a maximum of three months), SSA may waive the reduction. Before SSA can waive the SSI payment reduction, the agency must receive the following documentation: (1) A physician's certification stating the SSI recipient will only be institutionalized for a maximum of three months, and (2) certification from the recipient, the recipient's family, or friends, confirming the recipient needs SSI payments to maintain the living arrangements to which the individual will return post-institutionalization. To obtain this information, SSA employees contact the recipient (or a knowledgeable source) to obtain the required physician's certification and the statement of need. SSA does not require any specific format for these items, so long as we obtain the necessary attestations. The respondents are SSI recipients, their family or friends, as well as physicians or hospital staff members who treat the SSI recipient.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Physician's Certifications and Statements from Other Respondents	60,000	1	5	5,000

3. Claimant Statement about Loan of Food or Shelter; Statement about Food or Shelter Provided to Another—20 CFR 416.1130–416.1148—0960–0529. SSA bases an SSI claimant or recipient's eligibility on need, as measured by the amount of income an individual receives. Per our calculations, income includes other people providing in-kind support and maintenance in the form of food and shelter to SSI applicants or recipients. SSA uses Forms SSA–5062 and SSA–L5063 to obtain statements about food or shelter provided to SSI claimants or recipients. SSA uses this information to determine whether food or shelters are bona fide loans or income for SSI purposes. This determination may affect claimants' or recipients' eligibility for SSI as well as the amounts of their SSI payments. The respondents are claimants and recipients for SSI payments, and individuals who provide loans of food or shelter to them.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden of response (minutes)	Estimated total annual burden (hours)
SSA–5062 Paper form	34,752	1	10	5,792
SSA–L5063 Paper form	34,752	1	10	5,792
SSA–5062 Modernized SSI Claims System (MSSICS)	34,752	1	10	5,792
SSA–L5063 MSSICS	34,752	1	10	5,792
Total	139,008	.....	.....	23,168

Dated: June 19, 2015.

Faye I. Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–15480 Filed 6–23–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 9173]

Culturally Significant Objects Imported for Exhibition Determinations: ''Picasso Sculpture'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Picasso Sculpture,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the imported objects at The Museum of Modern Art, New York, New York, from on or about September 14, 2015, until on or about February 7, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: June 19, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–15539 Filed 6–23–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9172]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Wrath of the Gods: Masterpieces by Michelangelo, Titian and Rubens'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that certain objects to be included in the exhibition ''The Wrath of the Gods: Masterpieces by Michelangelo, Titian and Rubens,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the imported objects at the Philadelphia Museum of Art, Philadelphia, Pennsylvania, from on or about September 12, 2015, until on or about December 6, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: June 18, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–15540 Filed 6–23–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0027]

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 15 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 July 31, 2015. Comments must be received on or before July 24, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket ManagementSystem (FDMS) numbers: Docket No. [Docket No. FMCSA–2013–0027], 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: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 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:

I. 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.

II. Exemption Decision

This notice addresses 15 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 15 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Deneris G. Allen (LA), Clarence C. Jones (PA), Cody A. Keys (OK), Eddie M. Kimble (NC), Anthony Luciano (CT), David McKinney (OR), Roger Myers (PA), Frank L. O'Rourke (NY), Curtis L. Pattengale (IN), Steven R. Peters (IA), Larry F. Reber (OH), Hoyt V. Smith (SC), Edward R. Swaggerty, Jr. (OH), James L. Tinsley, Jr. (VA), Marcus R. Watkins (TX)

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.

III. 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 15 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (78 FR 24798; 78 FR 46407). Each of these 15 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.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0027), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2013–0027'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2013–0027'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. 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 DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: June 17, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15512 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0322]

Hours of Service of Drivers: B.R. Kreider & Son, Inc.'s Application for Exemption

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

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its denial of the application of B.R. Kreider & Son, Inc., (Kreider) for an exemption from the requirement that drivers of commercial motor vehicles (CMVs) be released from work within 12 hours in order to take advantage of the short-haul exception to part of the hours of service (HOS) rules. Drivers qualifying for the short-haul exception are subject to the HOS limits but are not required to maintain a record of duty status (RODS) during the duty day. FMCSA concluded that Kreider has not demonstrated how its CMV operations under such an exemption would be likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: FMCSA denied the application for exemption by letter dated May 21, 2015, after notice and opportunity for public comment.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325, Email: *MCPSD@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit 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., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

The HOS rules (49 CFR part 395) generally prohibit drivers from operating a CMV after the 14th hour measured from the time they come on duty following 10 consecutive hours off duty, though they must cease CMV driving at any time that they accumulate 11 hours of driving time in a duty day. The HOS rules also require operators of CMVs to maintain a RODS, or log, on board the CMV at all times (§ 395.8(a)). However, § 395.1(e)(1) provides an exception to this requirement for qualifying ''short-haul'' drivers. Drivers do not have to maintain a RODS on board the CMV if they (1) operate within a 100 air-mile radius of the normal work reporting location, (2) return to the work reporting location and are released from duty within 12 hours of the time they came on duty, (3) have at least 10 consecutive hours off duty separating each 12 hours on duty, (4) do not exceed 11 hours driving following 10 consecutive hours off duty, and (5) the motor carrier that employs them maintains and retains for a period of 6 months accurate and true time records showing the time the drivers reported for duty, the time they are released from duty, and the total number of hours the drivers are on duty. A driver who expects to qualify for the short-haul exception does not maintain a RODS on board the CMV. However, if later in the day the driver discovers that he or she is not going to qualify for the short-haul exception, the HOS rules require the driver immediately to prepare a RODS reflecting his or her activities during the entire day.

Application for Exemption

Kreider is an interstate motor carrier engaged in the short-haul transportation of materials such as topsoil, fill, and stone. Kreider's CMV drivers do not go beyond a 100 air-mile radius of their normal work-reporting location during their duty day, but it is impossible for its drivers to complete their duty day within the 12-hour limit. Kreider believes that it is impractical to require CMV drivers to prepare a RODS at this point. Kreider states that too much non-productive driver time results from this requirement. It believes that the same level of safety would be achieved operating under the short-haul exception without regard to the 12-hour requirement as would be achieved in the absence of the exemption.

Public Comments and Agency Decision

On November 5, 2014, FMCSA published notice of this application and asked for public comment (79 FR 65757). Twenty-one comments were received and are available for review in the docket. Kreider indicates that its drivers are spending 10 minutes making a RODS entry for a 5-minute stop. However, Agency guidance states that short periods of time (less than 15 minutes) may be identified on the RODS by drawing a line from the appropriate on-duty (not driving) or driving line to the ''remarks'' section and entering the amount of time and the geographic location of the change in duty status (Guidance Statement 1, § 395.8). This should take less than one minute. In addition, the FMCSA believes that while it is appropriate to relieve drivers of the task of maintaining a RODS if they limit their duty day to 12 hours, enforcement of the 11-hour and 14-hour rules would be severely hampered if roadside officials were deprived of the RODS of drivers whose duty days have exceeded 12 hours.

The Agency reviewed Kreider's application and the public comments. By letter dated May 21, 2015, FMCSA denied the application because the Agency concluded that Kreider's operations were not likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved in the absence of the exemption [49 CFR 381.310(c)(5)]. A

copy of the denial letter is in the docket of this matter.

Issued on: June 17, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15519 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021]

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 23 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 July 22, 2015. Comments must be received on or before July 24, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021], 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: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 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:

I. 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.

II. Exemption Decision

This notice addresses 23 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 23 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Juan D. Adame, Jr. (TX), Stanley C. Anders (SD), David W. Bennett (NC), Joel A. Cabrera (FL), Sherman W. Clapper (ID), John L. Elder, III (DE), Eric Esplin (UT), Ronald R. Fournier (NY), Anthony Hall (LA), Ronald D. Jackman II (NV), Thomas W. Kent (IN), Gerald Kortesmaki (MN), John W. Locke (TX), Robert J. MacInnis (MA), Steve J. Morrison (ID), Ellie L. Murphree (AL), Steven A. Proctor (TX), Adolph L. Romero (FL), Jose Sanchez-Sanchez (KS), Robert B. Steinmetz (OR), Rodney W. Sukalski (MN), Larry D. Warneke (WA), Lonnie D. Wendinger (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.

III. 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 23 applicants has

satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 17743; 66 FR 33990; 68 FR 35772; 70 FR 17504; 70 FR 30997; 70 FR 33937; 71 FR 14566; 71 FR 30227; 72 FR 12666; 72 FR 25831; 72 FR 27624; 72 FR 32705; 73 FR 27014; 74 FR 19270; 74 FR 26461; 74 FR 26464; 74 FR 34630; 75 FR 50799; 75 FR 72863; 76 FR 2190; 76 FR 17481; 76 FR 25766; 76 FR 28125; 76 FR 29022; 76 FR 34135; 76 FR 37168; 76 FR 37173; 76 FR 37885; 76 FR 44082; 78 FR 10251; 78 FR 20379; 78 FR 24300; 78 FR 34140; 78 FR 37270; 78 FR 51268; 78 FR 51269; 78 FR 57679). Each of these 23 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.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. 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 DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: June 17, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15509 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0115]

Denial of Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of denial of applications for seizure exemptions.

SUMMARY: FMCSA announces the denial of 8 individuals' applications for exemptions from the rule prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The reason for each of the denials is listed after the individual's name.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statutes allow the Agency to renew exemptions at the end of the 2-year period. The 8 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorder standard in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is qualified physically to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In order to make an evidence-based decision, FMCSA conducted a comprehensive review of scientific literature and convened a panel of medical experts in the field of neurology to evaluate key questions regarding seizure and anti-seizure medication related to the safe operation of a CMV. Previously, the Agency gathered evidence for decision making concerning potential changes to the regulation by conducting a comprehensive review of scientific literature that was compiled into a report entitled, ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a MEP in the

field of neurology on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure and the 2007 Evidence Report. The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/medical/driver-medical-requirements/driver-medical-fitness-duty* under reports and are in the docket for this notice. In reaching the determination to grant or deny exemption requests for individuals who have experienced a seizure, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP).

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[1] The MEP recommendations are included in an appendix at the end of this notice and in each of the previously published dockets.

Epilepsy diagnosis. If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

• *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; or by alcohol or illicit drug withdrawal.

• *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates that individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the Evidence Report to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes current relevant medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference of Neurological Disorders and Commercial Driving'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis. The disposition of applications announced in this notice applies the 2007 MEP recommendations.

Denials and Reasons

• *The following drivers were listed previously in* ***Federal Register*** *Notice FMCSA–2015–0115* published on May 8, 2015:

Henry A. Freiburger—Mr. Freiburger has a history of epilepsy. His last seizure was in 2002. His anti-seizure medication was discontinued for a brief period in 2014. He does not meet the MEP guidelines at this time.

Timothy K. Jameson—Mr. Jameson has a history of epilepsy. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Matthew J. Murphy—Mr. Murphy has a history of seizure disorder. His last seizure was in 2013. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

David Joe Patterson—Mr. Patterson underwent a craniotomy for aneurysm in 1988, has no history of seizure or loss of consciousness and has never taken anti-seizure medication since 1988. He does not meet the MEP guidelines at this time.

Charles E. Sprenger—Mr. Sprenger has a history of seizure related to a brain tumor. The tumor was removed in 2008. He discontinued his anti-seizure medication in 2013. He does not meet the MEP guidelines at this time.

Michael E. Tuttle—Mr. Tuttle has a history of epilepsy. His last seizure was February 2008. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Mohammad S. Warrad—Mr. Warrad has a history of seizures. His last seizure was in 1999. His anti-seizure medication was changed in March 2014. He does not meet the MEP guidelines at this time.

Tyler David Williams—Mr. Williams has a history of epilepsy. His last seizure was in 2009. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Issued on: June 17, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15520 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–EX–P

[1] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2013–0047, FMCSA–2014–0034]

Applications for Exemption

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

ACTION: Notice of final disposition; denial of applications for exemption.

SUMMARY: FMCSA announces its decision to deny the applications for exemption from its regulations submitted by David Muresan, Payne & Dolan, Inc., Zenith Tech, Inc., and Northeast Asphalt, Inc. FMCSA has analyzed the applications for exemption and public comments received on each, and rendered its decisions based upon the merits of each application.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Docket

You may read the applications for exemption, background documents, public comments and the Agency's letters of final determination in the dockets of these applications by going to *www.regulations.gov,* or to Room W12–140, DOT Building, 1200 New Jersey Ave. SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Background

FMCSA has authority under 49 U.S.C. 31315 and 31136(e) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR part 350 *et seq.*). The Agency is required to publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. FMCSA must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. FMCSA reviews the applications for exemption, safety analyses and public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** with the reasons for denying or granting the application [49 CFR 381.315(b) and (c)].

David Muresan [Docket FMCSA–2013–0047]

David Muresan is a long-haul CMV driver who believes the hours-of-service (HOS) rules (49 CFR part 395) of the FMCSRs require him to drive when he is sleepy. He believes that he could operate more safely if he could decide when he needs sleep. Mr. Muresan proposes that he be exempt from all the HOS rules and be subject to certain rules he has designed. The HOS rules generally require CMV drivers transporting property to obtain at least 10 consecutive hours off duty between workdays. Mr. Muresan proposes that he be permitted to operate at any time that he has accumulated 10 hours off duty by any number of breaks of any length he chooses. Mr. Muresan also proposes that 24 consecutive hours at his residence would permit him to return to ''reset'' his driving ''clock;'' current rules require a minimum of 34 consecutive hours for such a restart. Mr. Muresan claims that, under his proposed rules, he would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption. However, he does not provide data or explain how he reaches this conclusion. Mr. Muresan wants to determine when he is sufficiently rested to resume driving, but, as FMCSA has indicated in its HOS rulemakings, research indicates that individuals are not necessarily good judges of whether or not they are rested.

On December 17, 2013, FMCSA published notice of this application (78 FR 76392). None of the three comments received were supportive of the application. FMCSA concludes that Mr. Muresan has failed to explain how he would ensure that he can achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the HOS rules. A copy of the denial letter dated April 7, 2015, is included in the docket number referenced above.

Payne and Dolan, Inc., Zenith Tech, and Northeast Asphalt, Inc. [Docket FMCSA–2014–0034]

These three construction companies applied jointly for an exemption from § 395.3(a)(3)(ii), barring operation of a CMV by a driver if 8 hours have passed since the end of the driver's last off duty or sleeper-berth period of at least 30 minutes. Their drivers operate CMVs in support of nighttime road repair and maintenance operations. The drivers deliver equipment and materials to work zones, spending an average of 2 hours per day behind the wheel operating a CMV. The companies state that their deliveries are often time sensitive; they cite asphalt as a material that must be delivered before its initial temperature drops appreciably. The companies allege that the mandatory 30-minute break unduly constrains their ability to deliver as circumstances dictate. They also state that the limited amount of time their CMV drivers spend behind the wheel, as well as their frequent breaks of less than 30 minutes, make them less susceptible to fatigue than CMV drivers who spend most of their workday behind the wheel.

On August 6, 2014, FMCSA published notice of this application (79 FR 45865). Comments in favor of the application and containing identical text were submitted by 438 individuals affiliated with the applicants; a comment in opposition to the application was also submitted. The FMCSA has reviewed the application and the public comments and determined that it would not be appropriate to grant the exemption. The Agency believes that minimal effort would be needed for these drivers to extend one of their frequent short breaks to 30 minutes. Absent a break of at least 30 minutes, FMCSA concludes that it would be unlikely that these drivers would achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)]. A copy of the denial letter dated January 26, 2015, is included in the docket number referenced above.

Issued on: June 16, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–15514 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2015–0018]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the revision of

the currently approved information collection:

Fixed Guideway Capital Investment Grants—New Starts Section 5309

DATES: Comments must be submitted before August 24, 2015.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. Web site: *www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. Fax: 202–493–2251.

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

4. Hand Delivery: U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Day, Office of Planning and Environment, (202) 366–5159, or email: *elizabeth.day@dot.gov*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Fixed Guideway Capital Investment Grants—New Starts Section 5309

(OMB Number: 2132–0561)

Background: The Federal Transit Administration (FTA) administers the discretionary Capital Investment Grant (CIG) grant program under 49 U.S.C. 5309 that provides funding for major transit capital investments including rapid rail, light rail, commuter rail, bus rapid transit, and ferries. Three types of eligible projects are outlined in law: smaller scaled corridor-based transit capital projects known as ''Small Starts''; new fixed guideway transit systems and extensions to existing fixed guideway systems known as ''New Starts''; and projects to improve capacity at least 10 percent in existing fixed guideway corridors that are at capacity today or will be in five years, known as ''Core Capacity''. The CIG program has a longstanding requirement that FTA evaluate proposed projects against a prescribed set of statutory criteria at specific points during the projects' development including when they seek to enter a subsequent phase of the process or a construction grant agreement. In addition, FTA must report on its evaluations and ratings annually to Congress.

The Moving Ahead for Progress Act in the 21st Century (MAP–21) enacted on July 6, 2012, made significant changes to the CIG program, including creation of an entirely new category of eligible projects called Core Capacity. MAP–21 also reduced the number of steps in the CIG process projects must follow to receive funds, created a new congestion relief evaluation criterion FTA must use to evaluate and rate projects, and specified that ''warrants'' (ways projects can qualify for automatic ratings) should be developed and used to the extent practicable. The requirement for CIG project ratings has been in place since 1998. Thus, the requirements for project evaluation and data collection for these proposed projects are not new. In general, the information used by FTA for CIG project evaluation and rating should arise as a part of the normal project planning process.

FTA has been collecting project evaluation information from project sponsors under the existing OMB approval for this program (OMB No. 2132–0561). However, due to the addition of the Core Capacity eligibility, the changes to the steps in the CIG process made by MAP–21, and the proposed implementation of ''warrants,'' it became apparent that some information now required might be beyond the scope of ordinary planning activities.

Respondents: State and local government.

Estimated Annual Burden on Respondents: Approximately 444 hours for each of the 155 respondents.

Estimated Annual Total Burden: 68,840 hours.

Frequency: Annually.

Matthew M. Crouch,

Associate Administrator for Administration.

[FR Doc. 2015–15485 Filed 6–23–15; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0077]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GABRA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 24, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0077. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GABRA is:

Intended Commercial Use of Vessel: ''Taking up to 6 passengers for daily sailing charters.''

Geographic Region: ''Puerto Rico.''

The complete application is given in DOT docket MARAD–2015–0077 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 15, 2015.

Thomas M. Hudson, Jr.,

Acting Secretary, Maritime Administration.

[FR Doc. 2015–15440 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0096; Notice 1]

Tesla Motors, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of Petition.

SUMMARY: Tesla Motors, Inc. (Tesla) has determined that certain model year (MY) 2008 Roadster 1.5 passenger cars do not fully comply with paragraph S4.4(c)(2), of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems.* TESLA has filed an appropriate report dated August 1, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 24, 2015.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- Electronically: Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Tesla's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Tesla submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Tesla's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 542 MY 2008 Roadster 1.5 passenger cars manufactured from February 1, 2008 through October 29, 2009.

III. Noncompliance: Tesla explains that if a fault is detected in a sensor, because the sensor is faulty, missing or unapproved, the Tire Pressure Monitoring System (TPMS) malfunction telltale will flash for 60 to 90 seconds and then remain continuously illuminated as required by FMVSS No. 138. However, the TPMS malfunction telltale fails to operate properly when a faulty, missing or unapproved sensor is detected and then the vehicle's ignition is cycled off and back on. In this situation, the malfunction telltale in the

subject vehicles does not re-illuminate immediately as required when the ignition locking system is re-activated. Instead, the affected vehicles must reach a speed between 20 mph and 25 mph for a maximum period of at least 90 seconds before the TPMS malfunction telltale re-illuminates.

Rule Text: Paragraph S4.4(c)(2) of FMVSS No. 138 requires in pertinent part:

S4.4 TPMS Malfunction.

(c) *Combination low tire pressure/TPMS malfunction telltale.* The vehicle meets the requirements of S4.4(a) when equipped with a combined Low Tire Pressure/TPMS malfunction telltale that:

(2) Flashes for a period of at least 60 seconds but no longer than 90 seconds upon detection of any condition specified in S4.4(a) after the ignition locking system is activated to the ''On'' (''Run'') position. After each period of prescribed flashing, the telltale must remain continuously illuminated as long as a malfunction exists and the ignition locking system is in the ''On'' (''Run'') position. This flashing and illumination sequence must be repeated each time the ignition locking system is placed in the ''On'' (''Run'') position until the situation causing the malfunction has been corrected. . . .

V. Summary of Tesla's Analyses: Tesla stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

(A) Tesla states that they provide warnings and alerts in several ways above and beyond the minimal requirements of the regulations. Specifically, the TPMS on the subject vehicles automatically checks the wheel sensors fitted on the vehicle. The TPMS then checks the tire pressure from each sensor and that the check system for tire pressure occurs prior to the vehicle moving. The TPMS detects one or more new sensors (meaning different from those calibrated by the TPMS during the vehicles last ignition cycle), the TPMS will automatically ''learn'' the new sensors. After calibration, the TPMS will again review all four tires for any low pressure situation.

If a low pressure situation occurs in one or more of the four tires on the vehicle, the system will continuously illuminate the combined low pressure/malfunction indicator lamp (MIL), thus providing the driver a timely warning of low tire pressure. In addition, the subject vehicles are also equipped with an auxiliary screen that provides additional warnings and information regarding a low pressure condition. When one or more of the four tires have a detected low tire pressure condition, the auxiliary screen in the lower portion of the center console area will automatically display an alert screen alerting the driver to a low tire pressure condition. In addition, the auxiliary screen will also display a diagram of the vehicle and note the tire at issue in a conspicuous manner. The system's auxiliary screen will also show the condition of all remaining tires. Information regarding the status of the tire pressures is available to the driver through a menu on this auxiliary screen at any time, even if the tires are properly inflated. This type of detailed information and multiple alerts ensures the drivers are well informed of a potential low tire pressure condition.

(B) Tesla also states that the TPMS only fails to operate properly when a faulty, missing or non-approved sensor is detected and the ignition is cycled. Specifically, if such a fault is detected, but the ignition is then cycled off, then on, the MIL will reset, thus requiring the system to re-detect the fault or missing or unapproved sensor versus immediately re-illuminating the MIL from the previously detected fault. The noncompliance is confined to this one particular aspect of TPMS function. All other functions remain in compliance with the requirements of FMVSS No. 138.

(C) Tesla further stated that although the MIL fails to re-illuminate immediately after a subsequent ignition off/on cycle, the TPMS remains functional. As a result, the system will still accurately detect the continued presence of a fault in a sensor and illuminate the MIL anew. Specifically, after ignition off/on, the TPMS will detect anew the faulty, missing or non-approved sensor and the MIL will flash for 60–90 seconds before staying on. This will occur no more than 90 seconds after the vehicle reaches a speed of between 20mph and 25 mph. Once illuminated, the MIL will remain on throughout the course of the ignition cycle, regardless of further operating speeds or other conditions. Moreover, the additional warnings via the ''fault'' display in the dashboard, and the auxiliary display warnings will appear anew. Clearing the new warning in the auxiliary screen will once again require the driver to actively clear the screen. Tesla believes this is especially effective in notifying vehicle operators in that the reanimation of the center auxiliary screen warning and subsequent action required to clear the screen ensures review of the warning by the driver.

(D) Tesla says they have not received any complaints, noted any issues, or had any incidents or other issues relating to the failure of the TPMS module noncompliance.

In summation, Tesla believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt Tesla from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Tesla no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Tesla notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–15424 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0120; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 2008 Cadillac Escalade Multipurpose Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2008 Cadillac Escalade multipurpose passenger vehicles (MPV) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are

substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2008 Cadillac Escalade) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 24, 2015.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

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

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories (''WETL''), Inc. of Houston, Texas (Registered Importer R–90–005) has petitioned NHTSA to decide whether nonconforming 2008 Cadillac Escalade MPV are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 2008 Cadillac Escalade MPV that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2008 Cadillac Escalade MPV to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2008 Cadillac Escalade MPV, as originally manufactured, conform to many FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that non-U.S. certified 2008 Cadillac Escalade MPV are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 110 *Tire Selection and Rims,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof panel System,* 124 *Accelerator Control Systems,* 135 *Light Vehicle Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Modification of the brake warning telltale through replacement of the tachometer with the U.S.-model component, which includes a compliant brake telltale, or by adding a brake telltale which complies with the requirements of the standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps and tail lamps with U.S.-model components.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the face of the passenger mirror.

Standard No. 138 *Tire Pressure Monitoring Systems:* Addition of U.S.-model tire pressure monitoring system components including, tire pressure sensors, transmitter, antenna, receiver, and software. In addition, verification that system functionality meets the requirements of the standard will be performed by testing each of the subject vehicles after installation of the U.S.-model components.

Standard No. 208 *Occupant Crash Protection:* A U.S.-version of the owner's manual must be provided with

the vehicle to meet the information requirements of the standard.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister to comply with the requirements of this standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield post to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–15426 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0028; Notice 1]

Tireco, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of Petition.

SUMMARY: Tireco, Inc. (Tireco) has determined that certain Milestar brand replacement medium truck tires do not fully comply with paragraph S6.5(j), and in some cases also paragraph S6.5(d), of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles.* Tireco has filed an appropriate report dated February 5, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 24, 2015.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- Electronically: Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Tireco's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Tireco submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. In a letter dated May 7, 2015, Tireco also submitted a supplement to its petition.

This notice of receipt of Tireco's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Replacement Tires Involved: Affected are approximately 31,316 Milestar brand medium truck replacement tires that were imported by Tireco and manufactured by Shandong Wanda Boto Tyre Co, LTD in China between June 3, 2013 and January 25, 2015. Refer to Tireco's 49 CFR part 573 report for detailed descriptions of the affected tires.

III. Noncompliance: Tireco states that the subject tires do not comply with paragraph S6.5(j) of FMVSS No. 119 because they are marked the letter ''J'' instead of the letter ''L'' to designate the tire's load range, or are not marked with any load range letter. In addition, some of the affected tires also do not fully comply with paragraph S6.5(d) of FMVSS No. 119 because, while the proper maximum load ratings and pressures are specified correctly on the sidewalls for both single and dual applications, both ratings are identified as ''DUAL.'' The first rating should have been identified as ''SINGLE.''

IV. Rule Text: Paragraph S6.5 of FMVSS No. 119 requires in pertinent part:

> S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4 mm (0.015 inch), except that the marking depth shall be not less than 0.25mm (0.010 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires. . . .

(d) The maximum load rating and corresponding inflation pressure of the tire, show as follows:

(Mark on tires rated for single and dual load): Max load single __kg (__lb) at __kPa (__psi) cold. Max load dual __kg (__lb) at _ _kPa (__psi) cold.

(Mark on tires rated only for single load): Max load __kg (__lb) at __kPa (__psi) cold.

. . .

(j) The letter designating the tire load range.

V. Summary of Tireco's Analyses: Tireco believes that the absence of the load range marking on some of the subject tires causes little or no risk of overloading of the tires by an end-user because the tires are marked with the correct number of plies, the correct load index and the correct maximum load values which Tireco believes provide equivalent information. Tireco also states that it has found one previous inconsequential noncompliance petition (see 79 FR 78562 (December 30, 2014)) in which the agency addressed the issue of a missing load range marking and believes that the agency should apply the same rationale in the case of the its petition.

In the case of the subset of affected tires marked with the incorrect load range letter ''J,'' Tireco believes there is no safety consequence since the tires actually were designed and manufactured to be stronger than load range ''J'' tires (which are constructed with two fewer plies). Thus, there is no risk that the incorrect marking would lead to overloading by an end-user. Moreover, the paper label attached to each of the tires, which must remain attached until the time of sale, contains the correct load range information, so there is little, if any, possibility that a purchaser will be misled.

In the case of the subset of affected tires that can be used in single or dual configuration, Tireco believes that the fact that both of the ratings were labeled as applicable to ''DUAL'' applications cannot realistically create a safety problem. Particularly since the tires are correctly marked with the correct maximum load capacity and inflation pressure in accordance with The Tire and Rim Association 2014 Year Book. Tireco also believes that any prospective purchaser of these tires, any operator of a truck equipped with these tires, and any tire retailer would immediately recognize that the first rating, ''1800Kg (3970LBS) AT 760 KPa (110 PSI) COLD,'' applies to the ''single'' configuration, and the second rating, ''1700Kg (3750LBS) AT 760 kPa (110 PSI) COLD,'' applies to the ''dual'' configuration. Such persons are fully aware that for all medium truck tires designed to be used in both single and dual configurations, the maximum load and corresponding pressure applicable to the single configuration is listed above the information applicable to the dual configuration. Such persons also would be aware that there could be no valid reason to have two different maximum loads for the dual configuration, and thus would immediately understand that the first load rating was meant to apply when the tire was utilized in a single configuration. Moreover, since the applicable inflation pressure is the same for both configurations, there is no risk that the mismarking would cause an operator to improperly inflate any of the tires. Tireco states that when a tire is designed for use in both single and dual configurations, FMVSS No. 119 requires that compliance testing be conducted based on the higher, more punishing tire load. Accordingly, Tireco believes that the tires will perform safely in both configurations. Tireco also believes that this principle was relied upon in grants of two similar petitions filed by Michelin North America, Inc. See 71 FR 77092 (December 22, 2006) and 69 FR 62512 (October 26, 2004).

In addition, Tireco stated its belief that all of tires covered by this petition meet or exceed the performance requirements of FMVSS No. 119, as well as the other labeling requirements of the standard.

Tireco is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject mislabelings.

As soon as Tireco became aware of the noncompliance, it immediately isolated the noncompliant inventory in Tireco's warehouses to prevent any additional sales. Tireco will bring all of the noncompliant tires into full compliance with the requirements of FMVSS No. 119, or else the tires will be scrapped. Tireco also believes that the fabricating manufacturer has corrected the molds at the manufacturing plant, so no additional tires will be manufactured with the noncompliance.

In summation, Tireco believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt Tireco from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Tireco no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Tireco notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–15425 Filed 6–23–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Treasury Public Engagement Pages

AGENCY: Departmental Offices, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury (Treasury) is issuing this notice to inform the public and solicit comments about a new method it is using to collect information and opinions posted on social media platforms. Relying on Treasury-generated ''hashtags'' and other social media identifiers, Treasury is aggregating public posts relating to Treasury activities and missions from third-party social media Web sites. Treasury is collecting and, in some cases, republishing this material to facilitate public engagement and awareness of Treasury and bureau initiatives. In this manner, social media will enable Treasury to interact with the public in effective and meaningful ways; encourage the broad exchange of and centrally locate a variety of viewpoints on proposed and existing Treasury missions; and educate the general public about evolving Treasury initiatives.

DATES: *Effective Date:* June 24, 2015. Comment due date: July 24, 2015. This initiative will launch upon publication of this notice. Treasury may make adjustments to the program based upon timely comments received.

ADDRESSES: Comments should be sent to: Office of Chief Information Officer, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington,

DC 20220. Treasury will make such comments available for public inspection and copying in the Treasury Library, Room 1020, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You must make an appointment to inspect comments by telephoning (202) 622–0990 (not a toll free number). You may also submit comments through the federal rulemaking portal at *http://www.regulations.gov* (follow the instructions for submitting comments). All comments received, including attachments and other supporting materials, are subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: For questions and privacy issues please contact: Helen Goff Foster (202) 622–0790, Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

The Purpose of the Collection

Treasury seeks to interact with the public on matters related to specific Treasury missions, initiatives, activities and functions. In this regard, Treasury anticipates that it will be helpful to collect information and opinions posted on social media platforms or submitted to Treasury directly on Treasury.gov. Treasury will collect and, in some cases, republish this material to facilitate public engagement and awareness of Treasury and bureau initiatives. In this manner, social media will enable Treasury to interact with the public in effective and meaningful ways; encourage the broad exchange of and centrally locate a variety of viewpoints on proposed and existing Treasury missions; and educate the general public about evolving Treasury initiatives.

Information That Will Be Collected: This collection will include information, opinions, and other material gathered in two ways: (1) Information publicly posted by individuals on third-party social media Web sites in connection with Treasury-generated hashtags or other Treasury-generated social media message identifiers; (2) information submitted directly to Treasury on web forms posted on Treasury.gov. In both instances, the information collected may also include identifying information relating to the individuals posting or submitting the material, to the extent such identifying information is provided or posted.

Types of Information Collected

The following types of information are collected to the extent the individual either provides the information through Treasury.gov or publicly publishes this information on third-party social media sites using Treasury-generated social media identifiers: Full name; username; email address; content of publicly-posted text; videos; photos; graphics; and interviews.

How the Information Is Used

Treasury collects, maintains, and sometimes publicly displays information that individuals choose to: (1) Publicly post on third-party social media Web sites using Treasury-generated social media ''hashtags'' or other social media identifiers related to Treasury missions, activities, initiatives, or operations; or (2) submit directly through web forms on Treasury.gov.

With Whom the Information Is Shared

Treasury may make all or portions of the information collected publicly available on its Web site(s). Treasury may also share the information collected with the National Archives and Records Administration (NARA) to ensure compliance with Federal Records Act requirements, or in response to NARA Office of Government Information Services requests relating to Treasury compliance with the Freedom of Information Act. Treasury may also share the information with contractors for the purpose of compiling, organizing, analyzing, programming, or otherwise refining the information to accomplish an agency function. Treasury may also share the information with a Congressional office in response to an inquiry made at the request of the individual to whom the information pertains. If Treasury suspects or has confirmed that the security or confidentiality of information posted on its Web site(s) (whether maintained by the Department or another agency or entity that relies on the information) has been compromised, Treasury will share the information with appropriate agencies, entities, and persons when reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. Treasury may also share the information with the Department of Justice for investigation, legal advice and/or representation.

Safeguards

Information collected by Treasury is maintained in a secure information system to ensure its integrity and availability. Records in this system are protected in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize risk of compromising the information being stored. Access to the information system and privileges to modify or remove information from the system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

How Long the Information Is Retained

Information collected as part of this initiative, to the extent deemed to be Treasury records, is maintained in accordance with Records Control Schedule N1–056–03–001, Item 10. Such records are designated as temporary records and are destroyed after one year or when no longer needed for business, whichever is later.

Authority for Collecting this Information: Executive Order 13571, Streamlining Service Delivery and Improving Customer Service, April 27, 2011.

Dated: June 17, 2015.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2015–15372 Filed 6–23–15; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Agriculture

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4287

Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4287

RIN 0570–AA73

Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Rural Business-Cooperative Service (Agency) is publishing this interim final rule for the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program (the Program), formerly the Biorefinery Assistance Program, incorporating changes required in the Agricultural Act of 2014 (2014 Farm Bill) and addressing comments received on the interim final rule published on February 14, 2011 (76 FR 8404). This interim final rule establishes provisions for the loan guarantees available for Biorefineries to support the production of Advanced Biofuels and Renewable Chemicals and for Biobased Product Manufacturing facilities.

DATES: This interim rule is effective August 24, 2015. Comments on the rule and the information collection under the Paperwork Reduction Act of 1995 must be received on or before August 24, 2015.

ADDRESSES: Submit your comments on this 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: Todd Hubbell, Energy Branch, Rural Business-Cooperative Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 3225, Washington, DC 20250–3201; telephone (202) 720–0410.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Food, Conversation, and Energy Act of 2008 (Pub. L. 110–246), otherwise known as the 2008 Farm Bill, established the Biorefinery Assistance Program (the Program) under Title IX, Section 9003, for making loan guarantees to fund the development, construction, and Retrofitting of Commercial-Scale Biorefineries using Eligible Technology. The 2008 Farm Bill defined Eligible Technologies as: Technology that is being adopted in a viable Commercial-Scale operation of a Biorefinery that produces an Advanced Biofuel; and technology that has been demonstrated to have technical and economic potential for commercial application in a Biorefinery that produces an Advanced Biofuel.

The Program's authority is continued in the Agricultural Act of 2014 (2014 Farm Bill) (Pub. L. 113–79), with several specific changes: (1) Renames the Program as the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance; (2) Revises the purpose statement for the Program to include Renewable Chemicals and Biobased Product Manufacturing; (3) Expands the Program to include Biobased Product Manufacturing facilities; (4) Adds definitions for ''Renewable Chemicals'' and ''Biobased Product Manufacturing''; and (5) Ensures diversity in the types of Projects approved.

Eligible applicants for the Program are as follows: Individuals; entities; Indian Tribes; units of State or Local Government; corporations; Farm Cooperatives; Farmer Cooperative Organizations; associations of Agricultural Producers; National Laboratories; Institutions of Higher Education; rural electric cooperatives; public power entities; and consortia of any of the foregoing entities.

The 2014 Farm Bill provides the Program with a total budget authority of $200 million in mandatory funding over three years, with discretionary funding totaling $375 million over five years ($75 million per year). This level of funding is less than provided under the 2008 Farm Bill, which had a total budget authority of $320 in mandatory funding, with discretionary funding totaling $750 million over five years ($150 million per year).

Purpose of the Regulatory Action

This rule revises 7 CFR part 4279, subpart C and 7 CFR part 4287, subpart D to implement the provisions contained in the 2014 Farm Bill, modifies the Program to incorporate administrative improvements based on Agency experience in implementing the Program, addresses comments received on the interim final rule, published in the **Federal Register** on February 14, 2011, and incorporates the guaranteed loan provisions of the Agency's Business and Industry (B&I) Guaranteed Loan program to make the rule a ''stand alone'' rule.

Summary of the Major Changes

The major changes being implemented by this rulemaking are:

- Revised the purpose and scope section by adding Renewable Chemicals and Biobased Product Manufacturing;
- Adding the ability to fund Biobased Product Manufacturing facilities;
- Removing the requirement that the majority of the Biorefinery production must be an Advanced Biofuel in order to be eligible for Program assistance;
- Supplementing the Program to include a ''project-finance framework;''
- Implementing a two-phase application process;
- Overhauling the scoring of applications; and
- Limiting Interest accrual to 90 days, in most instances, to determining what the guarantee will cover and what can be included in a loss claim.

Costs and Benefits

The Agency estimates that approximately 95 applicants will submit Phase 1 applications. The burden to these applicants under the new two-phase application process is estimated to be approximately 700 hours per application. The Agency estimates that each applicant who receives a loan guarantee would require an additional 252 hours for reporting and other servicing actions.

The benefits associated with the Program under the subsequent interim rule are, for the most part, the same as those that accrue under the baseline Program. Direct beneficiaries of the Program continue to be those applicants who receive a Section 9003 loan guarantee, but now include owners and operators of Biorefineries whose primary product is a Renewable Chemical and owners and operators of Biobased Product Manufacturing facilities. Indirect beneficiaries of the Program continue to include technology providers of the systems used in advancing these facilities, feedstock

suppliers, producer associations and cooperatives, and Lenders.

Expanding the Program to include Renewable Chemicals and Biobased Product Manufacturing will further potential positive environmental impacts associated with replacing petroleum-based feedstock with renewable biomass feedstock.

The Agency expects the changes (described later in this Notice) to make the Program more attractive to larger, more sophisticated Lenders who are under more regulatory scrutiny than the Lenders that have historically participated in the Agency's guaranteed loan programs. Their participation is necessary due to the size of the Projects funded under the Program. Changes are also made that clarify and streamline Agency application requirements, which will aid Lenders and Borrowers in putting together materials required as part of the application process.

The Agency also expects the changes to the Program to result in a greater diversity of the types of Projects being funded, including Biobased Product Manufacturing facilities and Biorefineries whose primary product is a Renewable Chemical that had not been eligible for funding under the Program as authorized by the 2008 Farm Bill. The Agency further expects these changes to improve the financial feasibility of Biorefineries producing Advanced Biofuels and Renewable Chemicals because Renewable Chemicals typically are of higher value than Advanced Biofuels and have broader market opportunities.

II. Executive Orders/Acts

Executive Order 12866

This interim final rule has been reviewed under Executive Order (EO) 12866 and has been determined to be ''economically significant'' by the OMB. The EO defines a ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this EO.

The Agency conducted a benefit-cost analysis to fulfill the requirements of EO 12866. In this analysis, the Agency identifies alternatives considered, the distributional effects of the rule changes, the estimated costs of applying for and the potential benefits of receiving Section 9003 funding.

Alternatives Considered

In the benefit-cost analysis, the Agency considered alternatives associated with three provisions—Renewable Chemicals, Biobased Product Manufacturing, and Project diversity.

Renewable Chemicals. Under the baseline Program, a Biorefinery is required to primarily produce Advanced Biofuels in order to participate; that is, the majority of the Biorefinery's production must be an Advanced Biofuel. The 2014 Farm Bill provisions add ''Renewable Chemicals'' to the Program's title and its purpose statement, but do not address how Renewable Chemical facilities will be assisted. The Agency, therefore, had to consider how a facility producing Renewable Chemicals would be eligible for a Section 9003 loan guarantee.

The Agency considered whether the 2014 Farm Bill would allow providing loan guarantees to facilities that produced Renewable Chemicals, but did not produce any Advanced Biofuel. The Agency also considered Congressional intent as articulated in the 2014 Farm Bill conference report, which would enable the Program to provide loan guarantees to a wide array of facilities.

After consideration of the entire 2014 Farm Bill provisions, the Agency is removing the regulatory requirement that a Biorefinery primarily produce an Advanced Biofuel. In addition, the subsequent interim rule (this rule) requires that the Biorefinery produce at least some Advanced Biofuel, but it does not set a minimum production level of Advanced Biofuel, and does not require the Advanced Biofuel be sold as Biofuel. The primary effect of these changes is to allow a Biorefinery that primarily produces a Renewable Chemical to apply for a Section 9003 loan guarantee.

Biobased Product Manufacturing. The 2014 Farm Bill added Biobased Product Manufacturing to the Program's title and purpose statement and provided for up to 15 percent of the mandatory funds for Fiscal Years 2014 and 2015 to be used to support facilities producing Biobased Products for end use. To incorporate Biobased Product Manufacturing facilities into the Program, the Agency considered two approaches—(1) writing separate sections in the rule to address specific Project criteria and administrative requirements for Biobased Product Manufacturing provisions or (2) revising the rule to broadly apply to all types of projects eligible under the Program.

Under the first approach, the Agency would develop criteria and other specific requirements for applications and write separate sections in the rule to address Biobased Product Manufacturing. This approach would require a large amount of duplication or cross referencing to the general rule. In addition, there is no statutory authorization for Biobased Product Manufacturing projects after 15% of the fiscal years 2014 and 2015 mandatory funding is expended on such projects. Thus, this approach would create provisions that would ''sunset'' after a short period of time.

Under the second approach, which the Agency is implementing, the Agency would revise the rule to apply as broadly as possible to all types of projects eligible under the Program, such as changing references from ''biorefinery'' to ''facility'' and to identify in an annual notice the priority scoring criteria that explicitly apply to Biobased Product Manufacturing facilities.

Project diversity. The 2014 Farm Bill provisions require that there be a diversity of technologies, products, and approaches in the types of Projects approved under the Program. The Agency considered two approaches for addressing Project diversity—specific Project criteria and administrative priority points.

Under the first approach, the Agency would identify one or more priority scoring criteria for specific technologies, products, and approaches that are under-represented in the Program portfolio and update the specific technologies, products, and approaches annually. The Agency determined that this approach would be more cumbersome and it could be difficult to identify new and emerging technologies, products, and approaches in advance of drafting and publishing criteria on an annual basis.

Under the second approach, which the Agency is implementing, the Agency would include the authority for the Administrator to award additional discretionary points in the priority scoring and selection process. This approach provides greater flexibility than the first approach and allows the Agency to respond to changes in the applications and the industries as a whole. As implemented, the Administrator, at the Administrator's discretion, may award up to 10 points to ensure as wide a range as possible of

technologies, products, and approaches are assisted in the Program's portfolio.

Distributional Effects

The subsequent interim rule affects the distribution of costs and benefits across eligible applicants. The subsequent interim rule increases costs to some of the applicants, but decreases the cost to many applicants (*i.e.,* those applicants who are not invited to submit a Phase 2 application). On balance, the two-phase application process reduces the total cost of the Program to the public.

While the types of benefits occurring as a result of the subsequent interim rule are not different from those that occur under the baseline Program, the benefits occur across a broader range of Projects (Renewable Chemicals and Biobased Product Manufacturing). The Agency also expects these changes to improve the financial feasibility of the Biorefineries supplying Renewable Chemicals and other Biobased Products to manufacturing facilities because Renewable Chemicals typically are of higher value than Advanced Biofuels.

The inclusion of the Renewable Chemical and Biobased Product Manufacturing provisions also means that there may be a shift in the entities receiving the benefits—from Biorefineries that primarily produce Advanced Biofuels to those that produce primarily Renewable Chemicals and to facilities that manufacture Biobased Products into end-user products. The extent that such a shift occurs depends in part on the applications received and their merits.

With regard to the distribution of benefits over time, the Program initially directly benefits those who are receiving loan guarantees for the construction and production of the Advanced Biofuels, Renewable Chemicals, and Biobased Products. The benefits of these products will be enjoyed by future generations to the extent that such Projects are successful in growing these businesses to the point where they become part of the long-term economy. While the subsequent interim rule does not directly change this type of distributional effect, the greater inclusion of Renewable Chemicals and the funding of Biobased Product Manufacturing can help ensure that these types of Projects and their products become part of the long-term economy.

Costs

The Agency estimates that the burden to the public of applying for a Section 9003 loan guarantee under the new two-phase application process to be approximately 700 hours per application. The Agency estimates that each applicant who receives a loan guarantee would require an additional 252 hours for reporting and other servicing actions.

Over the three years following the effective date of the subsequent interim rule, the Agency estimates that there will be approximately 95 applicants submitting Phase 1 applications, of which 34 will be invited to submit a Phase 2 application. The number of applicants is based on (1) an assumption of full funding for the Program over the next three years, (2) the fact that we have received approximately three times more applications than we could fund, and (3) the number of expected applications for the first time from biorefineries whose primary output is a Renewable Chemical and from Biobased Product Manufacturing facilities based on inquiries from these sectors.

Benefits

The benefits associated with the Program under the subsequent interim rule are, for the most part, the same as those that accrue under the baseline Program. Direct beneficiaries of the Program are those applicants who receive a Section 9003 loan guarantee, which can be up to $250 million (not to exceed 80 percent of total Eligible Project Costs). As a result of the 2014 Farm Bill, direct beneficiaries will now include owners and operators of Biorefineries whose primary product is a Renewable Chemical and owners and operators of Biobased Product Manufacturing facilities.

Indirect beneficiaries of the Program include the technology providers of the system used in advancing these Biorefineries and Biobased Product Manufacturing facilities, Agriculture Producers and others who supply the feedstock used in these Biorefineries and facilities, producer associations and cooperatives (to the extent that applicants seek to partner with such entities), and Lenders.

By relying on Renewable Biomass feedstock, these Projects have the ability to have a greater positive impact on the environment than similar products produced from petroleum-based feedstock. Expanding the Program to include Renewable Chemicals and Biobased Product Manufacturing will further these potential positive environmental impacts.

Creating diversity in technologies, products, and approaches helps spread the potential for development of new and emerging technologies products, and approaches as broadly as possible thereby achieving a primary purpose of the Program—to assist in the development of new and emerging technologies.

Funding

The 2014 Farm Bill provides $100 million of mandatory funding for the Program for Fiscal Year 2014 and $50 million of mandatory funding for each of Fiscal Years 2015 and 2016. Of the mandatory funding for Fiscal Years 2014 and 2015, the Secretary may use for the cost of loan guarantees not more than 15 percent to promote Biobased Product Manufacturing. The 2014 Farm Bill also enables Congress to approve an additional $75 million of discretionary funding for Fiscal Years 2014 through 2018.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act 1995 (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 the private sector. Under section 202 of the UMRA, Rural Development generally must prepare a written statement, including a 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 one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires Rural Development 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 the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

The Program has been operating since 2009, initially under funding notices, but later under an interim final rule published on February 14, 2011. The Program's regulations are found in 7 CFR part 4279, subpart C and 7 CFR part 4287, subpart D. Under this Program, the Agency conducts a National Environmental Policy Act (NEPA) review for each application received. To date, no significant environmental impacts have been reported, and Findings of No Significant Impact (FONSI) have been issued for each approved application. Taken collectively, the applications show no

potential for significant adverse cumulative effects.

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with NEPA of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Executive Order 12988, Civil Justice Reform

This interim final rule has been reviewed under EO 12988, Civil Justice Reform. In accordance with this rule: (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the Department of Agriculture's National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 13132, Federalism

It has been determined, under EO 13132, Federalism, that this interim final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in the rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have an economically significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. This interim rule affects entities that utilize the Section 9003 Guaranteed Loan Program and any prospective entities that may utilize the program in the future. Between fiscal years 2009 and 2014, the Agency received 42 applications. Of these 42 applications, 28 applications were either withdrawn by the applicant/borrower, were determined by the Agency to be ineligible, or have had program funds previously committed, deobligated. Of the remaining 14 applications, the Agency issued 10 Conditional Commitments and 4 applications are pending further review and evaluation. The Agency estimates that most, if not all, of the entities that submitted applications would be considered a small entity, as defined by the Regulatory Flexibility Act, based on using the SBA-established threshold of 1,000 employees for defining a small business for the NAICS code 325199 (which is often used as a default code for many the entities applying for the Section 9003 program). Because of this high percentage, the Agency has determined that this rule will have an impact on a substantial number of small entities.

However, the Agency has determined that the economic impact of this rule on these entities will not be significant. The most significant change in the rule that affects entities applying for this program is the implementation of the two-phase application process, which will have a positive impact on most applicants. Under the two-phase application process, all applicants must submit a Phase I application and then only a smaller subset of these applicants would submit the Phase II application. Under the current interim rule, all applicants have to submit an application that is equivalent to a combined Phase I and Phase II application. The new application process reduces the cost to those applicants who are ''unsuccessful''—that is, to those who are not invited to submit a Phase II application. This change reduces the impact of the Section 9003 program by almost 70 percent for the ''unsuccessful'' applicant. Thus, under the new application process, 67 percent of the applicants between fiscal years 2009 and 2014 would have incurred significantly lower application costs.

Based on the data in the Paperwork Reduction Act (PRA) burden package, the Agency estimates the cost of the rule to be approximately $31,000 per successful applicant. This is based on determining which of the estimated costs in the PRA burden package would be incurred by the entities applying for and participating in the program. As noted above, most of the entities applying for and participating in the Section 9003 program are likely to be small businesses. The Agency examined the 10 entities to whom conditional commitments were made and the four entities whose applications are still pending. With the exception of two projects, none of the projects are yet operating. Thus, the Agency does not have actual financial information to use to evaluate the impact of the rule on these entities. Therefore, the Agency elected to look at the financial data (specifically, projected revenue or sales data when the projects reach full production) supplied in the applications and upon which the Agency made its decisions as to which projects to issue conditional commitments. Based on these data, the range of projected annual revenues/sales for these 14 projects is $4.1 million to $262 million. A cost of $31,000 per entity represents approximately 0.75% of the projected revenues for the smallest projected revenue stream down to 0.01% for the largest. Therefore, this rule will not have a significant impact on a substantial number of small entities.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The regulatory impact analysis conducted for this interim final rule meets the requirements for EO 13211, which states that an agency undertaking regulatory actions related to energy supply, distribution, or use is to prepare a Statement of Energy Effects. This analysis finds that this rule will not have any adverse impacts on energy supply, distribution, or use.

Executive Order 12372, Intergovernmental Review of Federal Programs

This Program is not subject to the provisions of EO 12372, which require intergovernmental consultation with State and local officials.

Executive Order 13175, Consultation and Coordination with Indian Tribes

This EO imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that this 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, this notice is not subject to the requirements of EO 13175.

Programs Affected

The Biorefinery Assistance Program is listed in the Catalog of Federal Domestic Assistance under Number 10.865. This will be updated with the Program's new name, as changed by the 2014 Farm Bill, the ''Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program.''

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Rural Business-Cooperative Service announces its intention to seek OMB approval of the new reporting and recordkeeping requirements contained in this rule.

The following annual estimates are based on an estimated volume of activity of 32 Phase 1 applications, 11 Phase 2 applications, and 6 new loan guarantees. Phase 1 applications are evaluated by the Agency to determine whether the Borrower is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, there is sufficient Collateral and equity, and the proposed loan complies with all applicable statutes and regulations. Phase 2 applications are only required for those applicants submitting eligible, high scoring phase I applications.

Estimate of Burden: Public reporting burden for the requirements will increase the current collection of information by an estimated total of 6,281 hours. The Agency anticipates the number of respondents to fluctuate based on funding levels. The average burden per respondent under the current interim rule is estimated to be 148 hours, and the average burden under the subsequent interim rule is estimated to be 410 hours, for an estimated increase of 262 hours per respondent.

Respondents: Respondents for this data are lending institutions and for profit businesses but also include individuals and corporations, non-profit businesses, Indian Tribes, units of State and Local Governments, farmer and rural electric cooperatives, Associations of Agricultural Producers, Institutions of Higher Education, public power entities, and consortiums of any of the foregoing entities. The annual estimates below are for both subparts associated with this rule.

Estimated Number of Respondents: 32.

Estimated Number of Responses per Respondent: 23.5.

Estimated Number of Responses: 752.

Estimated Total Annual Burden (hours) on Respondents: 13,115.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742 or by calling (202) 692–0040.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this rule will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

E-Government Act Compliance

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

USDA Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file an employment complaint, you must contact your agency's EEO Counselor (PDF) within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at *http://www.ascr.usda.gov/complaint_filing_file.html*

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html*, or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov*.

Individuals who are deaf, hard of hearing, or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

III. Background

On February 14, 2011, the Agency published an interim final rule for the Biorefinery Assistance Program (the Program) in the **Federal Register** (76 FR 8404). The interim final rule addressed comments that the Agency received on the proposed rule, which was published in the **Federal Register** on April 16, 2010 (75 FR 20044), and to clarify proposed provisions. Changes were made throughout the rule, with many of the changes addressing definitions; Lender, Borrower, and Project eligibility requirements; application requirements and scoring; and various loan guarantee provisions, such as those associated with conditions of guarantee, fee, Interest rates and loan terms, and maximum percent guarantee.

The interim final rule became effective on March 16, 2011, and the Agency provided a 60-day comment period for the public to submit comments on the interim final rule.

Today's action is addressing the public comments received.

On February 7, 2014, the 2014 Farm Bill was signed into law. Section 9003 of the 2014 Farm Bill addresses the Program. The Agency held a listening session on March 13, 2014, to receive input from interested stakeholders on the various energy and bioeconomy provisions of the 2014 Farm Bill. No comments specific to the Program were received.

In addition to renaming the Program the ''Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance,'' Section 9003 affects funding associated with Biobased Product Manufacturing facilities and funding associated with Biorefineries producing Renewable Chemicals. Section 9003 also requires the Secretary of Agriculture to ensure diversity in the types of Projects approved under the Program.

The Agency has been implementing the Program since the 2008 Farm Bill. During this time, the Agency has applied a ''commercial lending'' framework to the Program. The Agency has determined that the Program can be implemented more effectively by adding the flexibility of using a ''project finance-based'' framework. In order to add project finance-based framework aspects, it is necessary to revise certain Program provisions, which are discussed later in this preamble.

Lastly, the Agency is restructuring the rule to be a ''stand alone'' rule. The current interim rule relies heavily on incorporating the guaranteed loan provisions of the Agency's B&I Guaranteed Loan program. The Agency has decided to eliminate the extensive cross-references to the B&I Guaranteed Loan program and in its place create a ''self-contained'' rule for the Program. In the course of doing this, the Agency is taking the opportunity to clarify and/or modify many of the provisions previously incorporated by reference in order to improve Program administration.

Most of the current interim rule's provisions have been carried forward into the subsequent interim rule, although there have been several significant changes. A summary of major changes to the current interim rule are summarized below in Section IV of this preamble. All of the comments received on the current interim rule and during the listening session are summarized in Section V of this preamble. Section VI presents in brief the substantive changes, if any, made in each section of the rule.

Interim final rule. USDA Rural Development is issuing this rule as an interim final rule, effective July 24, 2015. All provisions of this rule are adopted on an interim final basis, are subject to a 60-day comment period, and will remain in effect until the Agency adopts the final rule.

IV. Discussion of Major Changes to the Program

As noted above, the changes being made to the Program are due to: (1) Statutory changes resulting from the 2014 Farm Bill, (2) based on the Agency's experience in operating the Program since it was authorized in 2008, amending the Program to enable flexibility to use a project finance-based framework, (3) the Agency's consideration of public comments on the February 14, 2011, interim final rule, and (4) the Agency's decision to create a ''self-contained'' rule. The following discussion presents the major changes made in response to these four considerations.

A. The 2014 Farm Bill

Section 9003 of the 2014 Farm Bill requires the Agency to modify the current interim rule in order to:

- include Biorefineries that primarily produce Renewable Chemicals;
- include Biobased Product Manufacturing; and
- ensure that there is diversity in the types of Projects approved.

1. Renewable Chemicals

The 2014 Farm Bill provisions add ''Renewable Chemicals'' to the Program's title and purpose statement, but do not address how the Program will assist Renewable Chemical facilities.

Currently, Biorefineries are required to primarily produce Advanced Biofuels in order to participate. Under the subsequent interim rule, the Agency is removing the regulatory requirement that the majority of production of a Biorefinery be an Advanced Biofuel. By removing this regulatory requirement, a Biorefinery producing Advanced Biofuel and Renewable Chemicals, will be able to participate without having to meet a specific minimum threshold production level of Advanced Biofuel.

When considering the eligibility of Biorefineries that produce Renewable Chemicals, the Agency will include in its consideration reliance on the program purpose and scope and the definitions of ''Biorefinery'' and ''Eligible Technology'' as found in 7 U.S.C. 8101 and 8103).

The purpose of the Program is to assist in the development of Advanced Biofuels, Renewable Chemicals, and Biobased Product Manufacturing.

''Biorefinery.—The term 'Biorefinery' means a facility (including equipment and processes) that (A) converts *renewable biomass* into *biofuels* and *biobased products;* and (B) may produce electricity.'' 7 U.S.C. 8101(7) (emphasis added.) The Agency interprets this definition to mean that the facility must produce Biofuel and may produce Biobased Products (which includes Renewable Chemicals) and may produce electricity.

''Eligible technology.—The term 'Eligible Technology' means, as determined by the Secretary (A) a technology that is being adopted in a viable Commercial-Scale operation of *a Biorefinery that produces an Advanced Biofuel;* and (B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in *a Biorefinery that produces an Advanced Biofuel.''* 7 U.S.C. 8103(b)(2) (emphasis added.)

Under the subsequent interim rule, a Biorefinery may convert Renewable Biomass into Renewable Chemicals or Biobased Products and must produce an Advanced Biofuel.

While requiring Biorefineries produce an Advanced Biofuel, the subsequent interim rule does not set a specific minimum production level of Advanced Biofuel and does not require that the Advanced Biofuel be sold as Biofuel. A Biorefinery may sell the Advanced Biofuel that it produces as a Biofuel or for other non-fuel usage. A Biorefinery may further process the Advanced Biofuel into Renewable Chemicals or other Biobased Products or use the Biofuel as a fuel for heat or power in its process or generate electricity.

Food or feed are not eligible Biobased Products (see § 4279.202 for definition of Biobased Products). However, a Renewable Chemical that is food-grade would be eligible.

In summary, the subsequent interim rule requires that at least some amount of Advanced Biofuel is produced, but does not set a specific minimum production level of Advanced Biofuel. The subsequent interim rule does not require that the Advanced Biofuel be sold as Biofuel. The Biorefinery may sell the Advanced Biofuel that it produces as a Biofuel, Renewable Chemical, or for other non-fuel usage. Further, the Biorefinery may process the Advanced Biofuel into Renewable Chemicals or other Biobased Products or use the Biofuel as a fuel for heat or power in its process or generate electricity.

2. Biobased product manufacturing facilities

The primary substantive change related to Biobased Product Manufacturing facilities is that the Program will now be able to provide funding to Biobased Product Manufacturing facilities.

The 2014 Farm Bill provides the definition of ''Biobased Product Manufacturing,'' which the Agency has incorporated into the subsequent interim rule. See § 4279.202. This definition requires the Biobased Product Manufacturing facility to use Renewable Chemicals and other biobased outputs of Biorefineries as inputs to produce end-user products. The facility must also use Technologically New Commercial-Scale processing and manufacturing equipment.

As being implemented under the subsequent interim rule, these facilities can be either stand-alone facilities or add-ons to existing Biorefineries. The amount of funding that can be used to support these facilities is limited by the 2014 Farm Bill to no more than 15 percent of mandatory funds made available in FY 2014 and FY 2015 to promote Biobased Product Manufacturing. (Note: This excludes any and all FY 2016 mandatory funds and all discretionary funds.)

The Agency is adding a new paragraph to the Project eligibility section to address Biobased Product Manufacturing facilities. The general Program requirements apply to financing of Biobased Product Manufacturing facilities. The Agency will publish, subsequent to the publication of this rule, a notice in the **Federal Register** soliciting applications for Biobased Product Manufacturing facilities.

3. Project Diversity

The 2014 Farm Bill provisions require that there be diversity in the types of Projects approved under the Program. The relevant provision states ''the Secretary shall ensure that, to the extent practicable, there is diversity in the types of Projects approved for loan guarantees to ensure that as wide a range as possible of technologies, products, and approaches are assisted.'' 7 U.S.C. 8103(d)(1)(D).

The Agency is implementing this provision by including authority for the Administrator to award discretionary points in the priority scoring and selection process. As implemented under the subsequent interim rule, the Administrator, at the Administrator's discretion, may award up to 10 points to ensure as wide a range as possible of technologies, products, and approaches are assisted in the Program's portfolio.

B. Improvements in program administration

As has been noted, the Agency is supplementing the commercial lending framework with the flexibility to use a project finance-based framework. A commercial loan is generally made to well-established companies in established industries. Commercial loans are secured by business assets. The evaluation of a commercial loan is generally based on the historical financial performance of the business and its financial performance in comparison to its industry peers.

Project financing is the financing of infrastructure and industrial projects. The evaluation of a project financing loan relies primarily on the development of a project and its cash flow for repayment, with the project's assets as secondary security or collateral.

Supplementing the Program with a project finance-based framework will align the Program with the Lenders standards and procedures and improve the Agency's evaluation of loan guarantee applications and credit risks. Significant changes are discussed below.

1. Two-Phase Application Process

The rule currently requires all applicants to submit a complete application including a technical report, environmental analysis, and the Lender's credit evaluation, as specified in the rule. The subsequent interim rule divides the application process into two phases. Phase 1 applications will provide information to determine Lender, Borrower, and Project eligibility; preliminary economic and technical feasibility; and the priority score of the application. Based on the priority score ranking, the Agency will invite applicants whose Phase 1 applications receive higher priority scores to submit Phase 2 applications. Phase 2 application materials will be submitted as the project planning and engineering is finalized and will include an environmental report, technical report, financial model, and the Lender's credit evaluation, as specified in the rule.

PHASE 1 APPLICATION MATERIALS

[Phase 1 application content must be submitted in an initial complete application package]

1. Project Summary.
2. Application form, Form RD 4279–1.
3. Financial statements—Audited annual statements and current statements.
4. Financial model and supporting assumptions.
5. Feasibility Study.
6. Business Plan.
7. Scoring information.
8. Intergovernmental consultation.
9. DUNS Number.

PHASE 2 APPLICATION MATERIALS

[Phase 2 application materials are submitted under the direction of the Agency and may be submitted as the materials are developed or updated]

1. Technical assessment/Technical Report.
2. Environmental Assessment.
3. Updates to application materials, as appropriate.
4. Other information requested by the Agency including contacts and agreements.
5. Lender's analysis, credit evaluation, and supporting materials.
6. Appraisals.
7. Lender's proposed Loan Agreement.
8. Estimate timing of loan closing and issuance of the Loan Note Guarantee (pre-construction or post-construction).
9. Credit rating—obtained under the direction of the Agency after loan terms and conditions have been established.

2. Credit Evaluation

The current interim rule requires Lenders to include an analysis of the credit factors associated with each guarantee application, including consideration of each of the following five elements:

(1) Credit worthiness.

(2) Cash flow.

(3) Capital.

(4) Collateral.

(5) Conditions.

Rather than focusing on a limited listing of elements, the subsequent interim rule requires the Lender to analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. This allows the Lender to apply a commercial lending framework or a project finance framework, as appropriate, on a project-by-project basis.

The Agency has identified in the subsequent interim rule the factors it uses to conduct its credit evaluation of the Project and Borrower. These factors include, but are not limited to, debt structure, revenues, technical feasibility, project equity, and other project funding.

3. Collateral Evaluation

Under the current interim rule, the adequacy of the Collateral is based on the value of the Project assets and requires the discounted Collateral value to be at least equal to the loan amount. The current interim rule does not evaluate the Collateral from the perspective of the Project's cash flow for repayment. However, of the Projects financed under this Program, the value of the assets is directly related to the Project's cash flow.

Under the subsequent interim rule, the Agency has the flexibility to determine how Collateral will be evaluated on a case-by-case basis, taking into account the type of project and the types of assets.

4. Lender Responsibilities

The subsequent interim rule places more emphasis on the Lender obtaining and relying on certain written materials (including, but not limited to, certifications, evaluations, appraisals, financial statements and other reports) from qualified third parties (including, among others, one or more independent engineers, appraisers, accountants, attorneys, consultants or other experts).

C. Public Comments on Interim Final Rule

The Agency received four comment letters from the public on the current interim rule (see Section V below.) After reviewing the public comments, the Agency identified a number of changes to improve the Program including:

- Removing the 500 basis point spread requirement between the guaranteed and unguaranteed portions of the loan. (§ 4279.231(a) of the current interim rule)
- Clarifying when a subordinate lien position may be taken on Borrower inventory and accounts receivables. (§ 4279.235(a))
- Adding a provision to allow the Lender to require Borrowers to fund debt service reserve accounts with loan proceeds. (§ 4279.210(c)(7))
- Revising the requirement for a Borrower to obtain an evaluation and either a credit rating or credit assessment for loan requests of $125 million or greater to requiring the Borrower to obtain a an evaluation and rating of the total Project's indebtedness, without consideration for a government guarantee, from a nationally-recognized statistical rating organization (NRSRO), as defined by the U.S. Security and Exchange Commission for all Projects with total Eligible Project Costs of $25 million or more. An updated rating may be required at the Agency's discretion if changes are subsequently made to the Project including changes to any contracts and agreements or changes to loan terms and conditions. (§ 4279.261(k)(5))

D. Stand-Alone Rule

As discussed earlier, the Agency is restructuring the rule to be a ''stand alone'' rule. The current interim rule relies heavily on incorporating the guaranteed loan provisions of the Agency's B&I Guaranteed Loan program. The Agency has decided to eliminate the extensive cross-references to the B&I Guaranteed Loan program and in its place create a ''self-contained'' rule for the Program. In the course of doing this, the Agency has restructured the rule. While the majority of the current interim rule's provisions have been carried forward, a number of provisions have been relocated. In addition, the Agency took the opportunity to clarify and/or modify many of the provisions previously incorporated by reference in order to improve Program administration.

V. Summary of Comments and Responses

As noted earlier, the current interim rule was published in the **Federal Register** on February 14, 2011, with a 60-day comment period that ended April 15, 2011. The Agency received comments from four commenters, which included Biorefinery owner/operators, Lenders and investment banking institutions. As a result of some of the comments, the Agency made changes in the rule. The Agency sincerely appreciates the time and effort of all commenters.

A. Equity Requirements

Comment: One commenter encouraged USDA to allow contributions of other real and personal property previously purchased with cash to count towards the Project equity requirement.

Two commenters recommended clarification as to whether or not the Fair Market Value of the Project, based on audited financial statements, can be used in whole or in part to meet equity requirements. One of these two commenters also recommended clarification as to whether or not the value of qualified intellectual property based on audited financial statements may be substituted in whole or in part to meet equity requirements.

One commenter recommended applying the Generally Accepted Accounting Principles (GAAP) utilized in the B&I Guaranteed Loan program such that the equity requirement may be calculated by deducting Federal grants from Eligible Project Costs in arriving at the equity requirement.

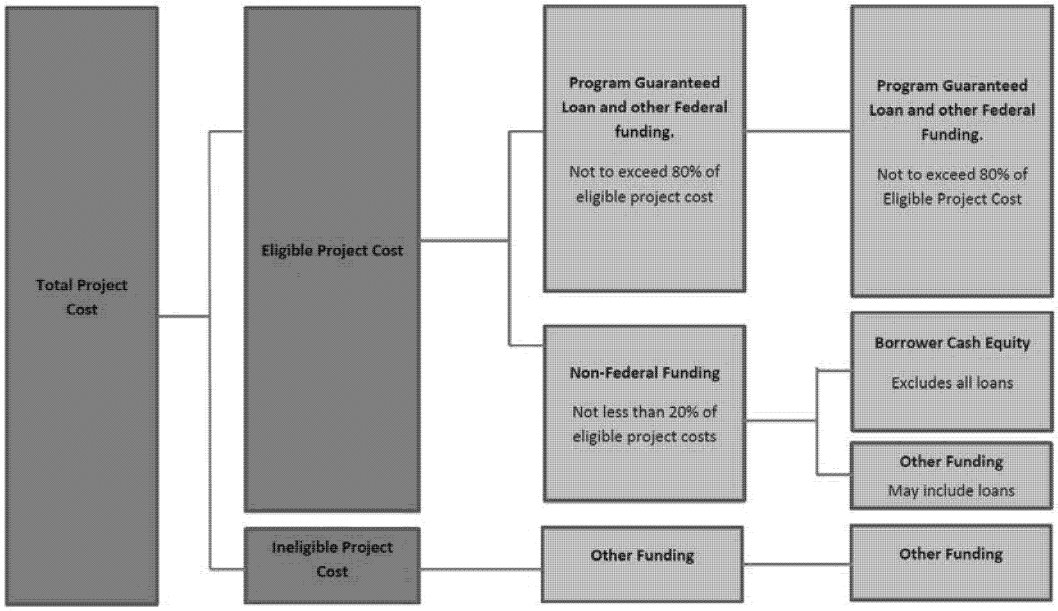
One commenter recommended allowing Project assets funded with other Federal grants, as well as other subordinate financing, to qualify as Project equity in arriving at the 20 percent equity requirement. Another commenter also recommended including subordinated financing as Project equity for purposes of satisfying the Program's equity requirements.

Response: The subsequent interim rule clarifies that Total Federal participation will not exceed 80 percent of total Eligible Project Costs. The subsequent interim rule states that the total amount of a loan guaranteed for a Project plus other Federal funding in the Project will not exceed 80 percent of total Eligible Project Costs. The remaining 20 percent of total eligible project cost must be funded from non-Federal sources. In addition, the subsequent interim rule revises the equity requirement by removing the balance sheet or financial statement equity test. The subsequent interim rule requires the Borrower and other principals involved in the Project to make a significant equity investment in the Project in the form of cash

contribution. Equity does not include loans to the Project. The Agency will establish the specific amount of equity it requires on a project-by-project basis based on its credit evaluation.

The following diagram illustrates the Project funding requirements and differentiates the cash equity requirement from non-Federal funding requirement:

Project Funding Requirements



B. Financing More Than One Facility

Comment: One commenter recommended clarifying whether or not more than one facility can be financed, together in the same loan package in order to be able to cross collateralize and to reduce application costs.

Response: There is no provision in the current or subsequent interim rule that excludes Projects that would provide financing for more than one facility in one application. Thus, Projects may be submitted with more than one facility under the same loan application.

C. Interest Rates

Comment: Two commenters stated that the Interest rate spread on the guaranteed and unguaranteed portions of the loan should not be restricted and should be allowed to follow market rates for similar investments with commensurate risk.

Response: The Agency agrees that the Interest rates on the guaranteed and unguaranteed portions of the loan should be set by the market and this change has been incorporated into the subsequent interim rule. The requirement from the current interim rule of a maximum 500 basis point spread between the Interest rates on the guaranteed and unguaranteed portions of the loan has been removed.

D. Minimum Retention

Comment: One commenter requested that the Agency lower the amount of the unguaranteed portion of the loan that the Lender must hold from 7.5 percent to 5 percent.

Response: The subsequent interim rule maintains that the Lender must retain 7.5 percent of the total loan amount. However, it allows for the Agency to reduce the percentage of the specific loan held, on a case by case basis, if the Lender establishes to the Secretary's satisfaction that reduction of the minimum retention percentage is to meet compliance with the Lender's regulatory authority.

E. Prototypes

Comment: One commenter stated that alternate approaches to prototype testing of complex processes and facilities should be considered to build confidence for Commercial-Scale readiness. The commenter requests that the Agency allow ''Semi-Work'' Scale testing combined with predictive modeling to cut the cost of demonstration scale testing.

Response: The Agency disagrees with the commenter. The Projects financed in the Program all involve complex processes which are stand-alone but must be integrated with each other for the facilities to be successful. Integrated demonstration of all necessary processes provides the best way of minimizing risk to both the Lender and the Agency. Under the subsequent interim rule, Projects utilizing a technology that does not have a history of successful utilization in a Commercial-Scale operation of a Biorefinery that produces an Advanced Biofuel will be required to provide evidence supporting technical information and data for 120 days of continuous, steady state production from an integrated demonstration unit facility prior to issuance of the Loan Note Guarantee. The integrated demonstration unit must prove out the Project's ability to utilize Project relevant biomass and produce Advanced Biofuel at a yield and quality consistent with the design basis of the Project.

F. Liens

Comment: One commenter recommended allowing a senior lien on the Borrower's cash in order to secure a portion of the unguaranteed loan amount retained by the Lender.

Response: The Agency disagrees with the commenter's recommendation. It is important the Lender have a financial interest in the success and also in any possible failure of the Project and

requiring that the Lender hold a certain percentage of the unguaranteed portion of the loan, and not allowing additional Collateral solely to secure the unguaranteed portion of the loan, is key to that position. Therefore, the rule does not allow for additional Collateral to be obtained solely for the purpose of securing the amount of the unguaranteed portion of the loan that must be held by the Lender.

Comment: One commenter requested that the Agency clarify whether or not a Working Capital Lender may secure a senior lien position on inventory and accounts receivables and also have senior payment rights with respect to the proceeds of the sale of that Collateral.

Response: The subsequent interim rule allows a Working Capital Lender to take a senior lien position on inventory and accounts receivables. The financial structure of the Project is under the discretion of the Lender and submitted to the Agency for review. If the Lender chooses to allow another banking institution to secure a lien on inventory and accounts receivables in exchange for Working Capital, it is permissible, provided that all Collateral requirements for the Agency guaranteed loan are met.

G. Tax Exempt Financing

Comment: One commenter recommended allowing tax exempt financing to fund the unguaranteed portion of the loan.

Response: OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables, precludes adopting the commenter's suggestion.

H. Sale or Assignment

Comment: One commenter recommended allowing the sale or assignment of a portion of the guarantee to subsidiaries or Affiliates under certain conditions.

Response: It is the Agency's position that allowing the sale or assignment of a portion of the guarantee to subsidiaries or Affiliates constitutes a Conflict of Interest. In some servicing actions, such as changing loan terms and Interest rate reductions, the Holder of portions of the guaranteed loan would have to approve the modification. The Agency's concern is that allowing subsidiaries or Affiliates to have control over loan modifications that they have a direct benefit in constitutes a Conflict of Interest. To avoid any appearance of a Conflict of Interest, the subsequent interim rule prohibits the sale or assignment of any portion of the guaranteed loan to the Borrower or its parent, subsidiary or Affiliate or to officers, directors, stockholders, other owners, or members of their Immediate Families.

I. Bonds

Comment: One commenter stated that any Agency required debt service reserve funds should not be viewed as Collateral for Bonds but rather as an accommodation to the bond market and that the proceeds of the sale of the Bonds should be permitted to be used to fund the debt service reserve funds thus making them Eligible Project Costs.

Response: The Agency agrees with the commenter. The subsequent interim rule allows for the use of guaranteed loan or Bond proceeds to be used to fund a debt service reserve account, if the Lender deems it necessary. The Agency reserves the right to require a debt service reserve on all Projects.

J. Collateral

Comment: One commenter stated that USDA should include assets acquired with other Federal funds on which the Lender is require to have first lien in the definition of Collateral in determining the value of Collateral, including loan-to-value calculations and net worth covenants.

Response: The Agency agrees with the commenter and has modified the rule accordingly. The subsequent interim rule does not require that assets acquired with Federal funds be excluded from the total value of Collateral. Under the Program, the onus is on the Lender to obtain and maintain proper and adequate Collateral to protect the interest of the Lender, the Holder, and the Agency.

K. Eligible Project Costs

Comment: One commenter requested a clarification whether or not the following are considered Eligible Project Costs: capitalized Interest, cost of financing, overhead expenditures of the Borrower related directly to a Project, development fees, license fees, third party engineering costs and other expenses such as rail lines, roads, and electric power lines.

Response: All of the expenses listed by the commenter, except for development fees, would be considered Eligible Project Costs.

L. Credit Assessment

Comment: One commenter recommended requiring a credit assessment on loans larger than $125 million rather than requiring a credit rating, which has significantly higher costs.

Response: The Agency has removed the requirement for a credit rating from all applicants for loans of $125 million and more and will require an evaluation and rating only for applicants selected for Phase 2 applications. The Agency is requiring an evaluation and rating of the total Project's indebtedness, without consideration for a government guarantee, from a nationally-recognized statistical rating organization (NRSRO), as defined by the U.S. Security and Exchange Commission, for all Projects with total Eligible Project Costs of $25 million submitting phase 2 applications. An updated rating may be required at the Agency's discretion if changes are subsequently made to the Project including changes to any contracts and agreements or changes to loan terms and conditions.

M. Surety

Comment: One commenter recommended removing the requirement that surety be secured on work to be completed.

Response: The Agency disagrees with the commenter. The commenter claims that the types of Projects in the Program will not be able to meet that requirement because these Projects are first-of-a-kind technology Projects where contractors will not accept the risk of a lump sum fixed price contract. Based on the Projects submitted to the Agency for review thus far, the majority have fixed price engineering, procurement and construction contracts, and many have wraps on the individual processes that constitute the Project. The rule specifies that Surety, as the term is commonly used in the industry, will be required. The Borrower must have either 100 percent performance/payment bonds on the contractors or a guarantee from a creditworthy parent entity or an alternative acceptable to the Lender and the Agency and must be secured. The bonding agent must be listed on Treasury Circular 570.

VI. Section-By-Section Discussion

This section presents, in brief, substantive changes and notable clarifications to the rule on a section-by-section basis. In developing the stand-alone rule, many existing provisions have been relocated to different places in the rule. Such relocations are not identified in the following discussion because the requirement itself has not changed.

A. 7 CFR Part 4279, Subpart C

Purpose and scope (§ 4279.201)

The Agency modified this section to reflect expansion of the Program as a result of the 2014 Farm Bill provisions to address Renewable Chemicals and

Biobased Product Manufacturing and to reflect more directly the authorizing language establishing the Program.

Definitions and abbreviations (§ 4279.202)

The Agency deleted terms that are no longer used within the rule. The Agency also added terms to, in part, incorporate changes in response to the 2014 Farm Bill and make improvements to the administration of the Program. Added terms include, but are not limited to:

- Annual Renewal Fee
- Biobased Product Manufacturing
- Bond
- Commercial-Scale
- Conflict of Interest
- Delinquency
- Good cause
- Grossly Negligent Loan Origination
- Grossly Negligent Loan Servicing
- In-house Expenses
- Interest termination date
- Liquidation Expenses
- Loan Packager
- Loan Service Provider
- Local Government
- Person
- Public Body
- Renewable Chemical
- Technologically New
- Well Capitalized

Exception authority (§ 4279.203)

The Agency did not make any substantive changes to this section.

Appeals (§ 4279.204)

The Agency provided additional examples and clarifications to this section, including reference to ''adverse'' decisions, but did not make any other substantive changes.

Prohibition under Agency programs (§ 4279.205)

The Agency did not make any substantive changes to this section. The Agency removed the prohibition of assistance to Government employees and active military personnel who are directors or officers or have an ownership interest of 20 percent or more in the business from being eligible applicants. While this change has the potential to increase the pool of applicants, the Agency expects the actual impact to be minimal.

Agency representation (§ 4279.206)

The Agency added this new section to ensure that in any litigation case in which the Agency is named a party the Agency has the right to be represented by the U.S. Department of Justice.

Lender eligibility requirements (§ 4279.208)

The Agency replaced the specific Lender capital requirements with a cross-reference to FDIC's definition of ''Well Capitalized.'' This modification, however, does not change the actual capital requirements.

The Agency also supplemented when Lenders must notify the Agency when under a ''cease-and-desist order'' with ''or other similar constraint, from a Federal agency'' to cover instances where different terminology is used.

In addition, insurance companies regulated by a State or National insurance regulatory agency are no longer eligible for the Program.

Borrower eligibility requirements (§ 4279.209)

The Agency did not make any changes to this section.

Project eligibility requirements (§ 4279.210)

The Agency made a number of changes to this section including:

- Requiring that the Borrower and other principals involved in the Project make a significant equity investment in the Project in the form of cash contribution, with the specific amount of equity required determined by the Agency on a project-by-project basis based on its credit evaluation;
- Incorporating requirements associated with the 2014 Farm Bill provisions for Renewable Chemicals and Biobased Product manufacturing.
- Removing the provisions associated with the requirement that the majority of the Biorefinery production must be an Advanced Biofuel.
- Removing the paragraph addressing eligible feedstock. Feedstock is addressed in the definitions of ''Advanced Biofuel'', ''Biorefinery'', and ''Renewable Biomass.''
- Clarifying Eligible Project Costs include an integrated demonstration unit under certain circumstances, professional services, necessary insurance and bonds, financing fees and costs, and cash reserve accounts.
- Incorporating ineligible project costs into this section. Changes include reducing/simplifying the identified ineligible purposes to only those costs that are most applicable to the Program; clarifying processing of corn kernel starch into biofuel is ineligible; and payments in excess of actual costs incurred by the contractor are ineligible under certain conditions. The absence of other ineligible loan purposes or project costs that are incorporated by reference under the current interim rule does not mean that they are now eligible.

General functions and responsibilities (§ 4279.214)

The Agency made three substantive changes in this section:

- Clarifying the Lender's responsibility when contracting with third parties and when relying on information from qualified third parties.
- Prohibiting agents and Persons from acting as both Loan Packager and Loan Service Provider on the same guaranteed loan. This implements a best practice.
- Requiring the keeping of a Collateral inventory by the Lender. This implements a best practice that a reasonable Lender should be doing as part of its normal business practice.

Credit evaluation (§ 4279.215)

The Agency revised this section based on experience administering the Program (as discussed earlier in Section III, Background.)

Environmental responsibilities (§ 4279.216)

The Agency changed the role of the Lender from helping the Borrower complete Form RD 1940–20, ''Request for Environmental Information,'' to ensuring that the Borrower has provided the environmental assessment.

Oversight and monitoring (§ 4279.217)

The Agency did not make any substantive changes to this section.

General conditions of guarantee (§ 4279.220)

The Agency made two primary modifications to this section. First, the Lender may request a change in the standard from ''negligent'' to ''grossly negligent'' for Loan Origination and Loan Servicing. The Agency will make this change on a case-by-case basis and only when the Lender can demonstrate to the Agency's satisfaction that changing to a ''gross negligence'' standard will not materially impair the Agency's interests, determined solely at the Agency's discretion. The subsequent interim rule identifies several additional conditions that must be met for the Agency to grant such a request.

Second, the Agency instituted a limitation on the period of time over which accrued Interest would be covered by the Loan Note Guarantee. If the Lender owns all or a portion of the guaranteed interest in the guaranteed loan or make a Protective Advance, the Loan Note Guarantee will not cover interest to the Lender accruing after 90 days from the most recent Delinquency effect date as reported by the Lender. If the guaranteed loan has one or more Holders, the Loan Note Guarantee will

not cover interest to the Holder(s) accruing after the greater of 90 days from the most recent Delinquency effect date as reported by the Lender or 30 days from the date the Lender or the Agency sends an interest termination letter to the Holder(s). These conditions are found in the definition of Interest Termination Date.

Rights and liabilities (§ 4279.221)

The Agency did not make any substantive changes to this section.

Payments (§ 4279.222)

The Agency did not make any substantive changes to this section.

Sale or assignment of guaranteed loan (§ 4279.223)

The Agency made a number of clarifications to this section to ensure Lenders know how the process works.

The Agency modified provisions associated with the multi-note option. The Agency removed limits on the number of notes that can be issued under the multi-note option. The Agency also removed the provision that allowed the Lender to issue a new series of notes when a loan is closed using the multi-note option and additional notes are desired at a later date.

Minimum retention (§ 4279.224)

The Agency did not make any substantive changes to this section.

Repurchase from Holder (§ 4279.225)

The Agency replaced the current provisions associated with the accrued Interest that the guarantee will cover with the provisions described above under § 4279.220 and the Interest Termination Date definition and now addresses these provisions in paragraphs (b)(3) through (5) of the section.

The Agency clarified that if the Agency repurchases 100 percent of the guaranteed portion of the loan, the Agency will not continue collection of the Annual Renewal Fee from the Lender.

The Agency also made a number of clarifications to ensure Holders know how the repurchase process works.

Replacement of document (§ 4279.226)

The Agency did not make any substantive changes to this section.

Equal Credit Opportunity Act (§ 4279.227)

The Agency did not make any substantive changes to this section.

Fees (§ 4279.231)

The Agency changed the basis for calculating the guarantee fee and Annual Renewal Fee from ''Total Project Costs'' to ''total Eligible Project Costs.''

Guaranteed loan funding (§ 4279.232)

The Agency simplified and clarified the text describing the maximum amount of loan a Project is eligible for and changed reference from ''equity'' to ''non-Federal sources.''

In cases requesting 90 percent guarantee rate, the Agency restated the requirement for ''equity of 40 percent'' to ''total Federal participation . . . not be greater than 60 percent of total Eligible Project Costs.'' The Agency also replaced the requirement of the Collateral coverage ratio with a provision limiting tax credits, carbon credits and other subsidies to 10 percent of the Project's total revenue on an annual basis in the Borrower's base case of financial projections.

Interest rates (§ 4279.233)

The Agency removed the requirement that the Interest rate on the unguaranteed portion of the loan cannot exceed the rate on the guaranteed portion of the loan by more than 500 basis points.

The Agency also modified the section to remove redundancies.

Terms of Loan (§ 4279.234)

The Agency did not make any substantive changes to this section.

Collateral (§ 4279.235)

The Agency restated the Collateral requirement to reflect the revised standards resulting from the Agency's experience administering the Program.

Insurance (§ 4279.243)

The Agency did not make any substantive changes to this section.

Appraisals (§ 4279.244)

The Agency made several changes and clarifications to this section, including:

- A clarification removed reference to a complete self-contained appraisal and now requiring the appraisal must be reported in a manner that summarizes all of the information necessary for the intended users to understand the report and contain all information pertinent to the appraiser's opinions and conclusions.
- Clarifying that documentation is included showing that the appraiser has the necessary experience and competency to appraise the property in question.
- Adding a requirement that appraisals not be more than 1 year old and that a more recent appraisal may be required by the Agency in order to reflect more current market conditions.
- For loan servicing purposes, updating to an appraisal may be acceptable in lieu of a completely new appraisal when the original appraisal is between one and two years old.
- Clarifying the requirements on what appraisals need to conform to.
- Adding a requirement for Lender to submit its technical review of the appraisal.
- For construction Projects, requiring the use of the ''as completed'' Market Value of the real estate to determine the value of the real estate.

Personal and corporate guarantees (§ 4279.245)

The Agency revised the conditions under which owners may be exempted, in part or in full, from providing guarantees.

Construction planning and performing development (§ 4279.256)

The Agency is clarifying a number of provisions associated with this section including:

- Lenders may contract for services and may rely on certain written materials and other reports provided by independent engineers or other qualified third parties;
- Borrowers must have either 100 percent performance/payment bonds on the contractors or a guarantee from a creditworthy parent entity or an alternative acceptable to the Lender and the Agency and must be secured;
- Lender requirements prior to the disbursement of construction funds (*e.g.,* having on file major drawings and a detailed timetable for the Project, requiring the Borrower to have contingencies in place for handling unforeseen cost overruns);
- The contents of monthly construction reports and quarterly progress reports submitted by the Lender to the Agency; and
- Once construction is completed, final permits and accounting of project funds.

The Agency is requiring Lenders to expeditiously report any problems in Project development to the Agency and to provide the Agency with a copy of the Notice of Completion when construction has been completed.

Borrower responsibilities (§ 4279.259)

The Agency did not make any substantive changes to this section.

Guarantee applications—general (§ 4279.260)

The Agency added a requirement that the Lender or Borrower must submit to the Agency a non-binding letter of intent to apply for loan guarantee not

less than 30 calendar days prior to the application deadline.

The Agency revised the application deadlines from November 1 and May 1 to October 1 and April 1, respectively.

The Agency clarified how application revisions submitted after the application deadline may impact the processing of the application and added ''ownership structure'' as a type of revision the Lender must report to the Agency.

Application for loan guarantee content (§ 4279.261)

The Agency revised the application process to a two-phase application (see Section IV.B.1). The Agency will use Phase 1 application information to determine Lender, Borrower, Project eligibility, economic and technical feasibility, and application priority score. Phase 2 application materials will be submitted as the Project planning and engineering develops and is finalized.

As noted earlier, the Agency is revising the requirement for a Borrower to obtain an evaluation and either a credit rating or credit assessment for loan requests of $125 million or greater to requiring only Phase 2 applicants to obtain an evaluation and rating for Projects with total Eligible Project Costs of $25 million or greater. In addition to the evaluation and rating from a nationally recognized statistical rating organization, the Agency is also using its own credit evaluation (see § 4279.215(b)) to conduct its ''assessment of the credit-worthiness of a security or money market instrument.'' The Agency has determined that these provisions are not in conflict with section 939A(b) of Pub. L. 111–203 (Dodd Frank).

The Agency also expanded the application requirements from submittal of the required environmental information to include submittal of an environmental analysis that meets the policies and requirements of the National Environmental Policy Act and the Agency. In addition, the Agency added to the resource assessment content a requirement to address methods and systems to prevent the spread of invasive species.

Guarantee application processing (§ 4279.265)

The Agency made several changes and clarifications to this section, including:

- Making conforming changes to remove reference to the financial metric criteria that are no longer part of the rule.
- Replacing reference to ''technical merit'' with ''technical and economic feasibility'' to align with the authorizing statute.
- Adding that the economic feasibility of the Project will be based on the Agency's analysis of the Feasibility Study, the Lender's credit evaluation, and other application materials.
- Deleting the three financial metric criteria for the Borrower and replaced with consideration of the Project's economic feasibility.
- For those Projects utilizing a technology that does not have a history of successful utilization in a Commercial-Scale operation of a Biorefinery that produces an Advanced Biofuel, requiring the evaluation of technical feasibility to include evidence demonstrating 120 days of continuous, steady state production from an integrated demonstration unit.

Guarantee application scoring (§ 4279.266)

The Agency made numerous changes and clarifications to this section, including:

- Revising the scoring criterion whether the Borrower has established a market for the Biofuel and Byproducts to evaluate the degree of commitment of Off-Take Agreements, duration of the Off-Take Agreements, financial strength of the off-take counterparty and dependency on subsidies. Total maximum points are increased from 10 to 20.
- Revising the scoring criterion whether the Borrower is proposing to use a feedstock not previously used in the production of Advanced Biofuels by reducing the total maximum points from 15 to 10.
- Revising the scoring criterion regarding working with cooperatives to simplify distribution of points.
- Revising the scoring criteria regarding the level of financial participation by the Borrower by changing the metric from debt-to-tangible net worth ratio to Federal participation as a percentage of total Eligible Project Costs. Total maximum points are increased from 15 to 20.
- Revising the scoring criteria whether the Borrower can establish that, if adopted, the Biofuels production technology proposed in the application will not have any economically significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks by reducing the total maximum points from 10 to 5 points.
- Revising the scoring criterion regarding the potential for Rural economic development by adding points if the majority of feedstock to be utilized by the Project, on an annual basis, is harvested from the land and by increasing total maximum points from 10 to 20 points.
- Adding Administrator discretionary points to ensure, to the extent practical, there is diversity in the types of Projects approved for loan guarantees to ensure as wide a range as possible of technologies, products, and approaches are assisted in the Program's portfolio.
- Clarifying that the Agency will award points on the basis of its review and analysis of all application materials.

Selecting guarantee applications (§ 4279.267)

The Agency added text to explain that procedures for selecting Biobased Product Manufacturing Projects will be identified in a **Federal Register** notice.

With the change in the application deadlines and with the implementation of the two-phase application process (see § 4279.260 above), the Agency revised the dates by which the Agency expects to rank applications each year.

The Agency also made conforming changes to accommodate the two-phase application process.

Loan approval and obligating funds (§ 4279.278)

The Agency clarified the procedures on how the Agency will handle Conditional Commitments and any changes thereto, including that changes must be for Good Cause. The Agency is also making clear that the Borrower must comply with all Federal requirements then in effect for receiving Federal assistance.

Transfer of Lenders (§ 4279.279)

The Agency clarified the specifics on how the Agency will handle the transfer of Lenders, which reflects current policy.

Changes in Borrowers (§ 4279.280)

The Agency did not make any changes to this section.

Conditions precedent to issuance of Loan Note Guarantee (§ 4279.281)

The Agency made explicit all of the forms and documents needed at or immediately after loan closing to include the following:

- Copy of the executed Promissory Note(s);
- Copy of the executed Loan Agreement;
- Copy of the executed settlement statement and updated source and use statement including all Project funding;
- Original, executed ''Unconditional Guarantee'' forms, as appropriate;
- Borrower's loan closing balance sheet; and

• Any other documents required to comply with applicable law or required by the Conditional Commitment or the Agency.

The Agency reduced the number of certifications required and removed redundancy in the certifications being required.

In the certification regarding the Borrower or its officers, directors, stockholders, or other owners having an ownership interest in the Lender, the Agency replaced ''substantial financial interest'' with ''more than a 5 percent ownership interest in the Lender.''

Refusal to execute Loan Note Guarantee (§ 4279.283)

The Agency did not make any substantive changes to this section.

Requirements after Project construction (§ 4279.290)

The Agency made conforming changes to accommodate the inclusion of Renewable Chemicals and Biobased Product Manufacturing.

B. 7 CFR Part 4287, Subpart D

Introduction (§ 4287.301)

The Agency clarified that all loan servicing actions under this subpart, except for certain specific actions, are subject to Agency concurrence and that, whenever Agency approval is required, the servicing action must be for Good Cause.

Definitions (§ 4287.302)

As discussed above, the definitions in § 4279.202 apply for terms applicable to this subpart.

Exception authority (§ 4287.303)

The Agency did not make any changes to this section.

Appeals (§ 4287.306)

The Agency made edits to clarify what is appealable versus reviewable. In addition, the Agency expanded the provisions to reflect current practice.

Servicing (§ 4287.307)

The Agency made several changes and clarifications to this section, including:

• Clarifying that while the Lender may contract with third parties and rely on information from qualified third parties that the Lender is solely responsible for servicing the loan.

• Adding additional examples of servicing responsibilities.

• Requiring Lenders to submit monthly Default reports.

• Revising the timeframes for submitting financial statements.

• Requiring the written summary provided by the Lender to include any violations of loan covenants and covenant waivers proposed by the Lender and any routine servicing actions performed.

• Updating the audit requirements to conform to 2 CFR part 200, subpart F and including Indian Tribes as being subject to the audit requirements.

• Clarifying, as a conforming change, that the guarantee is unenforceable under either negligent loan servicing or grossly negligent loan servicing as established in the Loan Note Guarantee.

Interest rate changes (§ 4287.312)

All increases in interest rates must be for Good Cause. The Agency did not make any other substantive changes to this section.

Release of Collateral (§ 4287.313)

The Agency made several changes and clarifications to this section, including:

• Clarifying that working assets can be released for routine business purposes without prior concurrence of the Agency when the loan is in good standing.

• Summarizing appraisal requirements.

• Requiring justifications and conditions for release of Collateral to include: applying the Collateral sold to Borrower debt, using net proceeds to purchase other Collateral of equal or greater value, and applying the proceeds to the business operations. Assurance that the release of Collateral is essential for the success of the business must be provided by the Lender.

Subordination of Lien Position (§ 4287.323)

The Agency made several changes to this section, including:

• Removing the limitation concerning the Subordination to a revolving line of credit cannot exceed one year.

• Replacing the requirement for adequate consideration for the Subordination with the requirement that the Subordination must be in the best financial interest of the Agency.

• Removing the provision prohibiting a Subordination from extending beyond the term of the guaranteed loan because a Subordination deals solely with the lien position on joint Collateral and does not address the term of the guaranteed loan.

• Requiring the Lender's Subordination proposal to include a financial analysis of the servicing action and be fully supported by current financial statements.

• Allowing a Subordination on accounts receivables and inventory to a line of credit.

• Providing the Agency the discretion to require an appraisal of Collateral assuring proper Collateral coverage.

• Providing the Agency the ability to deny Subordinations of the Lender's lien position for good cause.

Alterations of Loan Instruments (§ 4287.324)

The Agency did not make any changes to this section.

Transfer and Assumption (§ 4287.334)

The Agency made several changes and clarifications to this section, including:

• Clarifying that a Transfer and Assumption of the Borrower's operation can take place either before or after the loan goes into liquidation.

• Prohibiting a Transfer and Assumption if Borrower Collateral has been purchased through foreclosure or the Borrower has conveyed title to the Lender.

• Providing Agency discretion as to when personal or corporate guarantees are required and whether the guarantees will be full or partial.

• Requiring that any new loan terms must also be for Good Cause.

• Adding a provision that the Agency will not approve any change in terms that results in an increase in the cost of the loan guarantee, except for good cause and only if the change otherwise conforms to applicable regulations.

• As one of the conditions for a release of liability, requiring that all of the loan Collateral is transferred to the transferee if the transferee is assuming the full amount of loan.

• If the proposed Transfer and Assumption is for less than the full amount of the Agency guaranteed loan, requiring an appraisal and limiting the appraised value of the Collateral to not less than the amount of the assumption.

• Requiring a legal opinion to accompany each request for a Transfer and Assumption.

• Prohibiting the issuance of new Promissory Notes to the transferee.

• Requiring a legal opinion that, upon its execution, the Transfer and Assumption is completed, valid, and enforceable and a certification that the Transfer and Assumption is consistent with the Agency's approved conditions for the transfer.

• Adding a requirement that, when the transfer and transferee are Affiliates or related parties, the Transfer and Assumption must be to an eligible Borrower and must continue the Project for eligible purposes as well as be for the full amount of the guaranteed loan indebtedness.

• Providing a description of the calculation of the transfer fee.

• Removing, with regard to change in control of the Borrower, reference to ''change of control means the merger of the borrower, sale of all or substantially all of the assets of the borrower, or the sale of more than 25 percent of the stock or other equity interest of either the borrower or its corporate parent.''

Substitution of Lender (§ 4287.335)

The Agency made several changes and clarifications to this section, including:

• Requiring the Lender to transfer the original Promissory Note and loan security documents to the new Lender, who must agree to the current loan terms.

• Adding additional procedures to be followed when there is a substitution of Lender.

• Requiring the request for a substitute Lender to be from the Borrower, the proposed substitute, and the original Lender if still in existence.

• Clarifying that where a Lender has been merged with or acquired by another Lender, the new Lender must execute a new Lender's Agreement unless the new Lender already has a valid Lender's Agreement with the Agency.

Lender Failure (§ 4287.336)

The Agency added this new section to address procedures when a Lender fails.

The acquiring Lender must take such action that a reasonable Lender would take if it did not have a Loan Note Guarantee.

Default by Borrower (§ 4287.345)

The Agency made several changes and clarifications to this section, including:

• Clarifying Lender duties in the event of a loss, including acting reasonably, working with the Borrower to cure the Default, and minimizing potential loss in the case of liquidation.

• Requiring monthly (rather than every other month) reports while the loan is still in Default.

• Removing reference to subsequent loan guarantees as a servicing option.

• Prohibiting capitalization of accrued Interest.

• Allowing balloon payments as a servicing option under certain conditions.

• Prohibiting the Lender from claiming Default or penalty Interest, late payment fees, and Interest-on-Interest when there is a loss or repurchase.

• Prohibiting debt write-down by the Lender where the Lender will continue with the Project loan, except as directed or ordered by a final court order.

• In instances of a loss, not allowing the guarantee to cover any accrued Interest in accordance with the Interest Termination Date as discussed earlier under § 4279.220.

Protective Advances (§ 4287.356)

The Agency made several changes and clarifications to this section, including:

• Clarifying that Protective Advance claims are paid only at the time of the final loss payment.

• Not allowing the guarantee to cover Interest on the Protective Advance accruing after the Interest Termination Date as discussed earlier under § 4279.220.

• Revising the cumulative total of Protective Advances for which Agency authorization is required from ''$100,000'' to ''$200,000 or 10 percent of the outstanding principal, whichever is less.''

Liquidation (§ 4287.357)

The Agency made a number of changes and clarifications to this section, including:

• Clarifying that when the decision to liquidate is made, if any portion of the loan has been sold or assigned, provisions will be made for repurchase.

• Explaining more clearly how the Agency will handle the Lender's liquidation plan, including its approval and the resolution of any Agency concerns.

• Requiring the Lender to take such actions that a reasonable Lender would take without a guarantee and to keep the Agency informed of such actions.

• Allowing a liquidation plan to be submitted with an estimate of Collateral value with Agency approval subject to the results of the final liquidation appraisal.

• Requiring the Lender to notify the Agency of any changes and updates (*e.g.,* change in value based on the liquidation appraisal) in the liquidation plan.

• Clarifying provisions regarding protective bids.

• Explaining when Agency approval is or is not required for acceleration.

• Limiting the accrual of Interest in accordance in the Interest Termination Date as discussed earlier under § 4279.220.

• Explaining more clearly the process for compromise settlements.

• Spelling out the responsibilities of the Lender during litigation proceedings.

Determination of Loss and Payment (§ 4287.358)

The Agency made a number of changes and clarifications to this section, including:

• Prohibiting the estimated loss payment from being used to reduce the unpaid balance owed by the Borrower.

• Revising the time period that the Agency will not guarantee accrued Interest in accordance with the Interest Termination Date as discussed earlier under § 4279.220.

• Allowing the Agency to consider a compromise settlement of Federal Debt after it has processed a final ''Guaranteed Loan Report of Loss'' and issued a 60 day due process letter.

• Prohibiting the sharing of any funds collected on Federal Debt with the Lender.

• Expanding the provision for the consideration of Liquidation Expenses to include:

○ Prohibiting the Lender from claiming any Liquidation Expenses in excess of liquidation proceeds.

○ Requiring Agency approval of any changes to the Liquidation Expenses that exceed 10 percent of the amount proposed in the liquidation plan.

○ Sharing equally between the Lender and Agency reasonable attorney/legal expense.

○ Prohibiting the guarantee fee and annual renewal fee as an authorized Liquidation Expense.

Future Recovery (§ 4287.369)

The Agency revised this section to require the Lender, after the final loss claim has been paid, to use reasonable efforts to attempt collection from any party still liable on the guaranteed loan. Any net proceeds from that effort must be split Pro Rata between the Lender and the Agency based on the original amount of the loan guarantee.

Bankruptcy (§ 4287.370)

The Agency made a number of changes and clarifications to this section, including:

• Requiring Lenders to monitor bankruptcy plans to determine Borrower compliance and, if the Borrower fails to comply, pursue appropriate relief.

• Requiring Lenders to submit a Default status report within 15 days after the date the Borrower Defaults and every 30 days thereafter until the Default is resolved or a final loss claim is paid by the Agency. The Default status report will be used to inform the Agency of the bankruptcy filing, the plan confirmation date, when the plan is complete, and when the Borrower is not in compliance with the plan.

• Requiring the Lender to request a bankruptcy loss payment of the guaranteed portion of the accrued Interest and principal discharged by the court for all bankruptcies when all or a portion of the debt has been discharged.

• Allowing only one bankruptcy loss payment during the bankruptcy proceeding unless the Bankruptcy Court approves a subsequent change to the bankruptcy plan.

• Requiring the Lender to use the Guaranteed Loan Report of Loss form to request a bankruptcy loss payment or to revise any bankruptcy loss payments.

• Revising when Protective Advances can be payable under the guarantee in the final loss claim and what kinds of expenses can be considered Liquidation Expenses.

• Expanding the types of expenses incurred during bankruptcy proceedings beyond just legal expenses and how those expenses will be treated.

Termination of Guarantee (§ 4287.380)

The Agency did not make any substantive changes to this section.

VII. Invitation To Comment

RD encourages interested persons and organizations to submit written comments, which may include data, suggestions, or opinions. Commenters should include their name, address, and other appropriate contact information. If persons with disabilities (*e.g.,* deaf, hard of hearing, or have speech difficulties) require an alternative means of receiving this notice (*e.g.,* Braille, large print, audiotape) in order to submit comments, please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Comments may be submitted by any of the means identified in the **ADDRESSES** section. If comments are submitted by mail or hand delivery, they should be submitted in an unbound format, no larger than letter-size, suitable for copying and electronic filing. If confirmation of receipt is requested, a stamped, self-addressed, postcard or envelope should be enclosed. RD will consider all comments received during the comment period and will address comments in the preamble to the final rule.

List of Subjects for 7 CFR Parts 4279 and 4287

Loan programs—Business and industry, Loan programs—Rural development assistance, Economic development, Energy, Direct loan programs, Grant programs, Guaranteed loan programs, Renewable energy systems, Energy efficiency improvements, Rural areas.

For the reasons set forth in the preamble, parts 4279 and 4287 of title 7 of the Code of Federal Regulations are amended as follows:

PART 4279—GUARANTEED LOANMAKING

■ 1. The authority citation for part 4279 is revised to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

■ 2. Revise subpart C to read as follows:

Subpart C—Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Loans

General

Eligibility Requirements

Lender Functions and Responsibilities

Conditions of Guarantee

Loan Processing

Applications

Subpart C—Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Loans

General

§ 4279.201 Purpose and scope.

The purpose of the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Program is to assist in the development of new and emerging technologies for the development of Advanced Biofuels, Renewable Chemicals, and Biobased Product Manufacturing. This is achieved through guarantees for loans made to fund the development, construction, and Retrofitting of Commercial-Scale Biorefineries using Eligible Technology and of Biobased Product Manufacturing facilities that use Technologically New Commercial-Scale processing and manufacturing equipment and required facilities to convert Renewable Chemicals and other biobased outputs of Biorefineries into end-user products on a Commercial Scale.

(a) This subpart and subpart D of part 4287 of this chapter contain the regulations for this Program.

(b) The Lender is responsible for ascertaining that all requirements for making, securing, servicing, and collecting the loan are complied with.

(c) Whether specifically stated or not, whenever Agency approval is required, it must be in writing.

(d) Copies of all forms, regulations, and instructions referenced in this subpart are available in any Agency office and from the USDA Rural Development Web site at *http://www.rd.usda.gov/programs-services/biorefinery-assistance-program*. Whenever a form is designated in this subpart, it is initially capitalized and its reference includes predecessor and successor forms, if applicable.

§ 4279.202 Definitions and abbreviations.

Terms used in this subpart are defined in this section. Terms used in this subpart that have the same meaning

as the terms defined in this section have been capitalized in this subpart.

Administrator. The Administrator of Rural Business-Cooperative Service within the Rural Development mission area of the U.S. Department of Agriculture.

Advanced biofuel. Fuel derived from Renewable Biomass, other than corn kernel starch, to include:

(1) Biofuel derived from cellulose, hemicellulose, or lignin;

(2) Biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);

(3) Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;

(4) Diesel-equivalent fuel derived from Renewable Biomass, including vegetable oil and animal fat;

(5) Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from Renewable Biomass;

(6) Butanol or other alcohols produced through the conversion of organic matter from Renewable Biomass; and

(7) Other fuel derived from cellulosic biomass.

Affiliate. An entity that is related to another entity by owning shares or having an interest in the entity, by common ownership, or by any means of control.

Agency. The Rural Business-Cooperative Service or successor Agency assigned by the Secretary of Agriculture to administer the Program. References to the National or State Office should be read as prefaced by ''Agency'' or ''Rural Development'' as applicable.

Agricultural producer. An individual or entity directly engaged in the production of agricultural products, including crops (including farming); livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50 percent or greater of their gross income is derived from the operations.

Annual renewal fee. A fee that is paid once a year by the Lender and is required to maintain the enforceability of the Loan Note Guarantee.

Arm's length transaction. A transaction between ready, willing, and able disinterested parties that are not affiliated with or related to each other and have no security, monetary, or stockholder interest in each other.

Assignment Guarantee Agreement. Form RD 4279–6, ''Assignment Guarantee Agreement,'' is the signed agreement between the Agency, the Lender, and the Holder containing the terms and conditions of an assignment of a guaranteed portion of a loan, using the single Promissory Note system.

Association of Agricultural Producers. An organization that represents Agricultural Producers and whose mission includes working on behalf of such producers and the majority of whose membership and board of directors is comprised of Agricultural Producers.

BAP. Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program.

Biobased product. A product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is either:

(1) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

(2) An intermediate ingredient or feedstock.

Biobased product manufacturing. The use of Technologically New Commercial-Scale processing and manufacturing equipment and required facilities to convert Renewable Chemicals and other biobased outputs of Biorefineries into end-user products on a Commercial Scale.

Biofuel. A fuel derived from Renewable Biomass.

Biogas. Renewable Biomass converted to gaseous fuel.

Biorefinery. A facility (including equipment and processes) that converts Renewable Biomass into Biofuels and Biobased Products and may produce electricity.

Bond. A form of debt security in which the authorized issuer (Borrower) owes the Bond holder (Lender) a debt and is obligated to repay the principal and Interest (coupon) at a later date(s) (maturity). An explanation of the type of Bond and other Bond stipulations must be attached to the Bond issuance.

Borrower. The Person that borrows, or seeks to borrow, money from the Lender, including any party liable for the loan except for guarantors.

Byproduct. An incidental or secondary product generated under normal operations of the proposed Project that can be reasonably measured and monitored other than: Advanced Biofuel, Program-eligible Biobased Products including Renewable Chemicals, and Program-eligible end-user products produced by Biobased Product Manufacturing facilities. Byproducts may or may not have a readily identifiable commercial use or value.

Calendar quarter. Four three-month periods in each calendar year as follows:

(1) Quarter 1 begins on January 1 and ends on March 31;

(2) Quarter 2 begins on April 1 and ends on June 30;

(3) Quarter 3 begins on July 1 and ends on September 30; and

(4) Quarter 4 begins on October 1 and ends on December 31.

Collateral. The asset(s) pledged by the Borrower to secure the loan.

Commercial-scale (commercial scale). An operation is considered to be a Commercial-Scale operation if it demonstrates that its sole or chief emphasis is on salability and profit and:

(1) Its revenue will be sufficient to recover the full cost of the Project over its expected life and result in an anticipated annual rate of return sufficient to encourage investors or Lenders to provide funding for the Project;

(2) It will be able to operate profitably without public and private sector subsidies upon completion of construction (volumetric excise tax is not included as a subsidy);

(3) Contracts for feedstock are adequate to address proposed off-take; and

(4) It has the ability to achieve market entry, suitable infrastructure to transport product to its market is available, and the technology and related products are generally competitive in the market.

Conditional Commitment. Form RD 4279–3, ''Conditional Commitment,'' is the Agency's notice to the Lender that the loan guarantee it has requested is approved subject to the completion of all conditions and requirements set forth by the Agency and outlined in the attachment to the Conditional Commitment.

Conflict of interest. A situation in which a Person has competing personal, professional, or financial interests that prevents the Person from acting impartially.

Default. The condition that exists when a Borrower is not in compliance with the Promissory Note, the Loan Agreement, security documents, or other documents evidencing the loan. Default could be a monetary or non-monetary Default.

Deficiency judgment. A monetary judgment rendered by a court of competent jurisdiction after foreclosure and liquidation of all Collateral securing the loan.

Delinquency. A loan for which a scheduled loan payment is more than 30 days past due and cannot be cured within 30 days.

Eligible project costs. Those expenses approved by the Agency for the Project as set forth in § 4279.210(d) and do not

include the costs set forth in § 4279.210(e).

Eligible technology. The term ''Eligible technology'' means, as determined by the Secretary:

(1) A technology that is being adopted in a viable Commercial-Scale operation of a Biorefinery that produces an Advanced Biofuel; or

(2) A technology not described in paragraph (1) of this definition that has been demonstrated to have Technical and Economic Potential for commercial application in a Biorefinery that produces an Advanced Biofuel.

Fair market value. The price that could reasonably be expected for an asset in an Arm's-Length Transaction between a willing buyer and a willing seller under ordinary economic and business conditions.

Farm cooperative. A business owned and controlled by Agricultural Producers that is incorporated, or otherwise recognized by the State in which it operates, as a cooperatively-operated business.

Farmer Cooperative Organization. An organization whose membership is composed of Farm Cooperatives.

Feasibility study. An analysis by an independent qualified consultant or consultants of the economic, market, technical, financial, and management feasibility of a proposed Project or business in terms of its expectation for success.

Federal debt. Debt owed to the Federal government that is subject to collection under the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.* Once the Agency determines a debt is Federal Debt and provides notice to the Lender, that Federal Debt is excluded from Future Recovery.

Future recovery. Funds anticipated to be collected by the Lender after a final loss claim is processed.

Good cause. A justification representing a reasonable approach given:

(1) The reasonably available alternatives;

(2) All known relevant factors;

(3) Program requirements; and

(4) The best interests of the government. Good cause must be approved by the Agency. Without prior approval by the Agency, alternatives that require the Agency to increase its guarantee, in either the Conditional Commitment or Loan Note Guarantee (including an increase of its subsidy costs under the Credit Reform Act of 1990), or provide additional assistance, will not be considered reasonable available alternatives under paragraph (1) of this definition or in the best interests of the government under paragraph (4) of this definition.

Grossly negligent loan origination. A serious carelessness in originating the loan which is so great as to appear to be conscious. The term includes not only the concept of a failure to act, but also not acting in a timely manner.

Grossly negligent loan servicing. A serious carelessness in servicing the loan which is so great as to appear to be conscious. The term includes not only the concept of a failure to act, but also not acting in a timely manner.

Guaranteed Loan Report of Loss. Form RD 449–30, ''Guaranteed Loan Report of Loss,'' used by Lenders when reporting a financial loss under an Agency guarantee.

Holder. A Person, other than the Lender, who owns all or part of the guaranteed portion of the loan with no servicing responsibilities.

Immediate family(ies). Individuals who live in the same household or who are closely related by blood, marriage, or adoption, such as a spouse, domestic partner, parent, child, sibling, aunt, uncle, grandparent, grandchild, niece, nephew, or cousin.

Indian tribe. This term has the meaning as defined in 25 U.S.C. 450b.

In-house expenses. Expenses associated with activities that are routinely the responsibility of a Lender's internal staff or its agents. In-house expenses include, but are not limited to, employees' salaries, staff lawyers, travel, and overhead.

Institution of higher education. This term has the meaning as defined in 20 U.S.C. 1002(a).

Interest. A fee paid by a Borrower to a Lender as a form of compensation for the use of money. When money is borrowed, Interest is typically paid as a fee over a certain period of time (typically months or years) to the Lender as percentage of the principal amount owed. The term Interest does not include Default or penalty Interest or late payment fees or charges.

Interest Termination Date. The date on which no further interest will be payable under the Loan Note Guarantee.

(1) If the Lender owns all or a portion of the guaranteed interest in the guaranteed loan or makes a Protective Advance, then the Loan Note Guarantee will not cover Interest to the Lender accruing after 90 days from the most recent Delinquency effective date as reported by the Lender.

(2) If the guaranteed loan has a Holder(s), the Lender, or the Agency, at its sole discretion, will issue an interest termination letter to the Holder(s) establishing the termination date for Interest accrual. The Loan Note Guarantee will not cover Interest to the Holder(s) accruing after the greater of:

(i) 90 days from the date of the most recent Delinquency effective date as reported by the Lender or

(ii) 30 days from the date of the interest termination letter.

Lender. The entity approved, or seeking to be approved, by the Agency to make, service, and collect the Agency guaranteed loan that is subject to this subpart.

Lender's Agreement. Form RD 4279–4, ''Lender's Agreement,'' or predecessor form, between the Agency and the Lender setting forth the Lender's loan responsibilities.

Liquidation expenses. Costs directly associated with the liquidation of Collateral, including preparing Collateral for sale (*e.g.,* repairs and transport) and conducting the sale (*e.g.,* advertising, public notices, auctioneer expenses, and foreclosure fees). Liquidation Expenses do not include In-House Expenses. Legal/attorney fees are considered Liquidation Expenses provided that the fees are reasonable, as determined by the Agency, and cover legal issues pertaining to the liquidation that could not be properly handled by the Lender and its in-house counsel.

Loan agreement. The agreement between the Borrower and Lender containing the terms and conditions of the loan and the responsibilities of the Borrower and Lender.

Loan classification. The process by which loans are examined and categorized by degree of potential loss in the event of Default.

Loan Note Guarantee. Form RD 4279–5, ''Loan Note Guarantee,'' or predecessor form, issued and executed by the Agency containing the terms and conditions of the guarantee.

Loan packager. A Person, other than the applicant Borrower or Lender, that prepares a loan application package.

Loan service provider. A Person, other than the Lender of record, that provides loan servicing activities to the Lender.

Local government. A county, municipality, town, township, village, or other unit of general government below the State level, or Indian Tribe governments.

Local owner. An individual who owns any portion of an eligible Biorefinery and whose primary residence is located within a certain distance from the Biorefinery as specified by the Agency in a Notice published in the **Federal Register**.

Market value. The amount for which a property will sell for its highest and best use at a voluntary sale in an Arm's Length Transaction.

Material adverse change. Any change in circumstance associated with a guaranteed loan, including the Borrower's financial condition or Collateral that could be reasonably expected to jeopardize loan performance.

NAD. National Appeals Division, or successor agency, in the United States Department of Agriculture.

Negligent Loan Origination. The failure to perform those actions which a reasonably prudent lender would perform in originating its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also acting in a manner contrary to the manner in which a reasonably prudent lender would act.

Negligent Loan Servicing. The failure to perform those services which a reasonably prudent lender would perform in servicing (including liquidation of) its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act, but also not acting in a timely manner, or acting in a manner contrary to the manner in which a reasonably prudent lender would act.

Off-take agreement. The terms and conditions governing the sale and transportation of Biofuels, Biobased Products including Renewable Chemicals, Biobased Product Manufacturing end-user products, and electricity produced by the Borrower to another party.

Parity. A lien position whereby two or more Lenders share a security interest of equal priority in Collateral.

Participate. Sale of an interest in a loan by the lead Lender to one or more Lenders wherein the lead Lender retains the Promissory Note, Collateral securing the Promissory Note, and all responsibility for managing and servicing the loan. Participants are dependent upon the lead Lender for protection of their interests in the loan.

Person. An individual or entity.

Program. Biorefinery Renewable Chemical, and Biobased Product Manufacturing Assistance Program often abbreviated as BAP.

Project. The facility or portion of a facility receiving funding under this subpart.

Pro rata. On a proportional basis.

Promissory note. Evidence of debt with stipulated repayment terms. ''Note'' or ''Promissory Note'' shall also be construed to include ''Bond'' or other evidence of debt, where appropriate.

Protective advance. An advance made by the Lender for the purpose of preserving and protecting the Collateral where the Borrower has failed to, and will not or cannot, meet its obligations to protect or preserve Collateral. Protective advances include, but are not limited to, advances affecting the Collateral made for property taxes, rent, hazard and flood insurance premiums, and annual assessments. Legal/attorney fees are not a Protective Advance. Holders do not have an interest in Protective Advances.

Public body. A municipality, county, or other political subdivision of a State; a special purpose district; or an Indian Tribe on a Federal or State reservation or other Federally-recognized Indian Tribe; or an organization controlled by any of the above. A Local Government would also be a Public Body.

Renewable biomass. (1) Materials, pre-commercial thinnings, or invasive species from National Forest System land or public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that:

(i) Are byproducts of preventive treatments that are removed to reduce hazardous fuels; to reduce or contain disease or insect infestation; or to restore ecosystem health;

(ii) Would not otherwise be used for higher-value products; and

(iii) Are harvested in accordance with applicable law and land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and large-tree retention of subsection (f) of section 102; or

(2) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:

(i) Renewable plant material, including feed grains; other agricultural commodities; other plants and trees; and algae; and

(ii) Waste material, including crop residue; other vegetative waste material (including wood waste and wood residues); animal waste and byproducts (including fats, oils, greases, and manure); and food waste and yard waste.

Renewable chemical. A monomer, polymer, plastic, formulated product, or chemical substance produced from Renewable Biomass.

Retrofitting. The modification of a building or equipment to incorporate functions not included in the original design.

Rural Development. The mission area of USDA that is comprised of the Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service and is under the policy direction and operational oversight of the Under Secretary for Rural Development.

Rural or rural area. See 7 U.S.C. 1991(a)(13)(A) and (D) *et seq.*

Secretary. The Secretary of the Department of the Agriculture.

Semi-work scale. A facility operating on a limited scale to provide final tests of a product or process.

Spreadsheet. A table containing data from a series of financial statements of a business over a period of time. Financial statement analysis normally contains Spreadsheets for balance sheet and income statement items and includes a cash flow analysis and commonly used ratios. The Spreadsheets enable a reviewer to easily scan the data, spot trends, and make comparisons.

State. Any of the 50 States of the U.S., the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subordination. The reduction of the Lender's lien priority on certain assets pledged to secure payment of the guaranteed loan to a position junior to, or on Parity with, the lien position of another loan in order for the Borrower to obtain additional financing, not guaranteed by the Agency, from the Lender or a third party.

Technologically New. New or significantly improved equipment, process or production method to deliver a product, or adoption of equipment, process or production method to deliver a new or significantly improved product, of which the first Commercial-Scale use in the United States is within the last five years and is used in not more than three Commercial-Scale facilities in the United States.

Total project costs. The sum of all costs associated with a completed Project.

Transfer and assumption. The conveyance by a Borrower to an assuming Borrower of the assets, Collateral, and liabilities of the loan in return for the assuming Borrower's binding promise to pay the outstanding loan debt approved by the Agency.

USDA Lender Interactive Network Connection (LINC). The portal Web site currently at *https://usdalinc.sc.egov.usda.gov/* used by Lenders to update loan data in the

Agency's Guaranteed Loan System. Current capabilities include loan closing and status reporting.

Well capitalized. Federal Deposit Insurance Corporation (FDIC) requirements used to determine if a lending institution has enough capital on hand to withstand negative effects in the market, and which the Agency uses to determine Lender eligibility. The criteria are specified in the Federal Deposit Insurance Act, and are currently at 12 CFR 325.103, or subsequent regulation.

Working capital. Current assets available to support a business's operations. Working Capital is calculated as current assets less current liabilities.

§ 4279.203 Exception authority.

The Administrator may, with the concurrence of the Secretary of Agriculture, make an exception, on a case-by-case basis, to any requirement or provision of this subpart that is not inconsistent with any authorizing statute or applicable law, if the Administrator determines that application of the requirement or provision would adversely affect the Federal government's interest.

§ 4279.204 Appeals.

Borrowers, Lenders, and Holders have appeal or review rights for adverse Agency decisions made under this subpart. Adverse programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appealability by the National Appeals Division (NAD). The Borrower, Lender, and Holder can appeal any Agency decision that directly and adversely impacts them. For an adverse decision that impacts the Borrower, the Lender and Borrower must jointly execute a written request for appeal for an alleged adverse decision made by the Agency. An adverse decision that only impacts the Lender may be appealed by the Lender only. An adverse decision that only impacts the Holder may be appealed by the Holder only. A decision by a Lender adverse to the interest of the Borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be conducted by NAD and will be handled in accordance with 7 CFR part 11.

§ 4279.205 Prohibition under Agency programs.

(a) No loan guaranteed by the Agency under this subpart will be conditioned on any requirement that the recipient(s) of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) No loan guaranteed by the Agency may be made with the proceeds of any obligation the Interest on which is excludable from income under 26 U.S.C. 103 or a successor statute. Funds generated through the issuance of tax-exempt obligations may neither be used to purchase the guaranteed portion of any Agency guaranteed loan nor may an Agency guaranteed loan serve as Collateral for a tax-exempt issue. The Agency may guarantee a loan for a Project which involves tax-exempt financing only when the guaranteed loan funds are used to finance a part of the Project that is separate and distinct from the part which is financed by the tax-exempt obligation, and the guaranteed loan has at least a Parity security position with the tax-exempt obligation.

(c) The Agency may not issue a guarantee for a loan where there may be, directly or indirectly, a Conflict of Interest or an appearance of a Conflict of Interest involving any action by the Agency.

(d) The Agency may not guarantee lease payments.

(e) The Agency may not guarantee loans made by other Federal agencies.

§ 4279.206 Agency representation.

Notwithstanding any other provision of this subpart and 7 CFR part 4287, subpart D, the Agency reserves the right to be represented by the U.S. Department of Justice in any litigation where the Agency is named as a party.

§ 4279.207 [Reserved]

Eligibility Requirements

§ 4279.208 Lender eligibility requirements.

(a) An eligible Lender is any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, and Bank for Cooperatives. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Credit unions subject to credit examination and supervision by either the National Credit Union Administration or a State agency are eligible Lenders. The National Rural Utilities Cooperative Finance Corporation is also an eligible Lender. Savings and loan associations, mortgage companies, insurance companies, and other lenders not meeting the above criteria are not eligible.

(b) The Lender must demonstrate that it meets the FDIC definition of Well Capitalized at the time of application and at time of issuance of the Loan Note Guarantee. This information may be identified in FDIC Call Reports and Thrift Financial Reports. If the information is not identified in the Call Reports or Thrift Financial Reports, the Lender will be required to calculate its levels and provide them to the Agency.

(c) The Lender must not be debarred or suspended by the Federal government.

(d) If the Lender is under a cease-and-desist order, or similar constraint, from a Federal or State agency, the Lender must inform the Agency. The Agency will evaluate the Lender's eligibility on a case-by-case basis given the risk of loss posed by the cease-and-desist order or similar constraint, as applicable.

(e) The Agency will only approve loan guarantees for Lenders with adequate experience and expertise, from similar projects, to make, secure, service, and collect loans approved under this subpart.

§ 4279.209 Borrower eligibility requirements.

(a) *Eligible entities.* To be eligible, a Borrower must meet the requirements specified in paragraphs (a)(1) and (2) of this section.

(1) *Type of Borrower.* A Borrower must be an individual; an entity; an Indian Tribe; or a unit of State or Local Government, including a corporation; a Farm Cooperative; a Farmer Cooperative Organization; an Association of Agricultural Producers; a National Laboratory; an Institution of Higher Education; a rural electric cooperative; a public power entity; or a consortium of any of the above entities.

(2) *Legal authority and responsibility.* Each Borrower must have, or obtain before loan closing, the legal authority necessary to construct, operate, and maintain the proposed Project and services and to obtain, give security for, and repay the proposed loan.

(b) *Ineligible entities.* A Borrower will be considered ineligible for a guarantee if the Borrower, any owner with more than 20 percent ownership interest in the Borrower, or any owner with more than 3 percent ownership interest in the Borrower if there is no owner with more than 20 percent ownership interest in the Borrower:

(1) Has an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court);

(2) Is delinquent on the payment of Federal income taxes;

(3) Is delinquent on a Federal Debt; or

(4) Is debarred or suspended from receiving Federal assistance.

§ 4279.210 Project eligibility requirements.

(a) The Project must be located in a State.

(b) The Project must be for either:

(1) The development, construction, and Retrofitting of Technologically New Commercial-Scale processing and manufacturing equipment and required facilities that will be used to convert Renewable Chemicals and other biobased outputs of Biorefineries into end-user products on a Commercial Scale; or

(2) The development, construction, or Retrofitting of a Commercial-Scale Biorefinery using Eligible Technology.

(c) The Borrower and other principals involved in the Project must make a significant equity investment in the Project in the form of cash contribution. Equity does not include loans to the Project. The Agency will evaluate the adequacy of equity in its credit evaluation in accordance with § 4279.215(b).

(d) Eligible Project Costs are only those costs associated with the items listed in paragraphs (d)(1) through (9) of this section, as long as the items are assets owned by the Borrower or expenses incurred by the Borrower and the items are an integral and necessary part of the Project, as determined by the Agency. A Project may consist of multiple facilities or components located at multiple locations.

(1) Purchase and installation of equipment (new, refurbished, or remanufactured), including an integrated demonstration unit if the integrated demonstration unit will be used by the Borrower in the Project after the Project is developed and in operation.

(2) New construction or Retrofitting of existing facilities including reasonable contingency reserves, land acquisition, site improvements and development, and associated costs such as surveys, title insurance, title fees, and recording or transfer fees.

(3) Permit and license fees and fees and charges for professional services. Professional services are those rendered by entities generally licensed or certified by States or accreditation associations, such as architects, engineers, accountants, attorneys, or appraisers, and those rendered by Loan Packagers (excluding finders fees). The Borrower may pay fees for professional services needed for planning and developing a Project provided that the amounts are reasonable and customary in the area. Professional fees may be included as an eligible use of loan proceeds.

(4) Working Capital.

(5) Cost of necessary insurance and bonds.

(6) Cost of financing, including capitalized Interest during construction period, legal fees, transaction costs, and customary fees charged by the lender, excluding the guaranteed loan fee and annual renewal fees.

(7) Cash reserve accounts required by the Lender or Agency, such as a debt service reserve account.

(8) Any other item identified by the Agency in a notice published in the **Federal Register**.

(9) The Agency will consider refinancing only under either of the two conditions specified in paragraphs (d)(9)(i) and (ii) of this section.

(i) Permanent financing used to refinance interim construction financing of the proposed Project only if the application for the guaranteed loan under this subpart was approved prior to closing the interim loan for the construction of the Project.

(ii) Refinancing that is no more than 20 percent of the loan for which the Agency is guaranteeing and the purpose of the refinance is to enable the Agency to establish a first lien position with respect to pre-existing Collateral subject to a pre-existing lien and the refinancing would be in the best financial interests of the Federal Government.

(e) Ineligible Project costs include:

(1) Distribution or payment to an individual owner, partner, stockholder, or beneficiary of the Borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the Borrower;

(2) Any line of credit;

(3) Any equipment, processes, and related costs of such equipment used for processing corn kernel starch into biofuel, including as an incidental or secondary product; and

(4) Payment in excess of actual costs (such as profit, overhead, and indirect costs) incurred by the contractor or other service provider on a contract or agreement that has been entered into at less than an Arm's Length Transaction or with an appearance of or a potential for Conflict of Interest.

§§ 4279.211–4279.213 [Reserved]

Lender Functions and Responsibilities

§ 4279.214 General functions and responsibilities.

(a) The Lender has the primary responsibility for loan origination and servicing. Any action or inaction on the part of the Agency does not relieve the Lender of its responsibilities to originate and service the loan guaranteed under this subpart. The Lender may contract for services and may rely on certain written materials (including, but not limited to, certifications, evaluations, appraisals, financial statements and other reports) to be provided by the Borrower or other qualified third parties (including, among others, one or more independent engineers, appraisers, accountants, consultants or other experts.) The Lender is ultimately responsible for underwriting, loan origination, loan servicing, and compliance with all Agency regulations.

(b) Agents and Persons are prohibited from acting as both Loan Packager and Loan Service Provider on the same guaranteed loan.

(c) All Lenders obtaining or requesting a Program loan guarantee are responsible for:

(1) Processing applications for guaranteed loans. The Lender is responsible for submitting a complete application for each guaranteed loan requested;

(2) Developing and maintaining adequately documented loan files, which must be maintained for at least 3 years after the final loss has been paid;

(3) Recommending only loan proposals that are eligible and financially feasible;

(4) Properly closing the loan and obtaining valid evidence of debt and Collateral in accordance with sound lending practices prior to disbursing loan proceeds;

(5) Keeping an inventory accounting of all Collateral items and reconciling the inventory of all Collateral sold during loan servicing, including liquidation;

(6) Supervising construction;

(7) Distributing loan funds;

(8) Servicing guaranteed loans in a reasonable manner, including liquidation if necessary;

(9) Following Agency regulations and agreements;

(10) Obtaining Agency approvals or concurrence as required; and

(11) Reporting all Conflicts of Interest, or appearances thereof, to the Agency.

§ 4279.215 Credit evaluation.

(a) Lenders must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, to ensure loan repayment. The Lender must have an adequate underwriting process to ensure that loans are reviewed by someone other than the originating officer. The Agency will only guarantee loans that are financially sound and feasible with reasonable assurance of repayment.

(b) In its credit evaluation, the Agency will consider the following factors:

(1) The feasibility of the Project and Borrower and likelihood that the Project and Borrower will produce sufficient revenues to service the Project's debt

obligations over the life of the loan guarantee and result in sufficient returns to investors;

(2) Project and Borrower debt structure and characteristics and debt repayment ability;

(3) Revenues of the Project and Borrower, strength and duration of off-take contracts and counterparty agreements, market demand and competitive position;

(4) Technical feasibility, demonstrated performance of the technology and readiness to commercialize the technology;

(5) Ownership structure of the Project and Borrower, strength of ownership and sponsors, commitment and amount of equity investment from ownership, sponsors and other equity investors;

(6) Operational management and experience;

(7) Complexity of construction/completion, terms of construction contracts, experience and financial strength of the construction contractor or engineering, procurement, and construction (EPC) contractor;

(8) Availability and depth of resource/feedstock market, strength and duration of purchase agreements, and availability of substitutes;

(9) Contracts and intellectual property rights, and state and local regulations;

(10) Energy, infrastructure and environmental considerations;

(11) The extent to which Project Costs are funded by the guaranteed loan or other Federal and non-Federal governmental assistance such as grants, tax credits, or other loan guarantees;

(12) Economic safeguards of the Project including contingency reserve funds and protections and safeguards provided to the Agency and Lender in the event of default through loan collateral and ownership and sponsorship guarantors, and;

(13) Other criteria that the Agency deems relevant.

§ 4279.216 Environmental responsibilities.

Lenders are responsible for becoming familiar with Federal environmental requirements; considering, in consultation with the prospective Borrower, the potential environmental impacts of their proposals at the earliest planning stages; and developing proposals that minimize the potential to adversely impact the environment.

(a) Lenders must alert the Agency to any environmental issues related to a proposed Project or items that may require extensive environmental review.

(b) Lenders must ensure that the Borrower has:

(1) Provided the necessary environmental information to enable the Agency to undertake its environmental review process in accordance with 7 CFR part 1940, subpart G, or successor regulations, including the provision of all required Federal, State, and local permits, and has completed Form RD 1940–20, ''Request for Environmental Information,'' and Exhibit H ''Environmental Assessment for Class II Actions'' (when required by 7 CFR part 1940, subpart G);

(2) Complied with any mitigation measures required by the Agency; and

(3) Not taken any actions or incurred any obligations with respect to the proposed Project that will either limit the range of alternatives to be considered during the Agency's environmental review process or which will have an adverse effect on the environment.

(c) Lenders must assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal and assist in the resolution of environmental issues.

§ 4279.217 Oversight and monitoring.

The Lender must permit representatives of the Agency (or other agencies of the United States) to inspect and make copies of any records of the Lender pertaining to Program guaranteed loans during regular office hours of the Lender or at any other time upon agreement between the Lender and the Agency. In addition, the Lender must cooperate fully with Agency oversight and monitoring of all Lenders involved in any manner with any loan guarantee under this Program to ensure compliance with this subpart. Such oversight and monitoring will include, but is not limited to, reviewing Lender records and meeting with Lenders (in accordance with § 4287.307(d) of this chapter).

§§ 4279.218–4279.219 [Reserved]

Conditions of Guarantee

§ 4279.220 General conditions of guarantee.

A loan guarantee under this part will be evidenced by a Loan Note Guarantee issued by the Agency. Each Lender will execute a Lender's Agreement. If a valid Lender's Agreement already exists, it is not necessary to execute a new Lender's Agreement with each loan guarantee. The provisions of this part and 7 CFR part 4287, subpart D will apply to all outstanding guarantees. In the event of a conflict between the guaranteed loan documents and these regulations as they exist at the time the documents are executed, the regulations will control.

(a) *Full faith and credit.* (1) A guarantee under this subpart constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which a Lender or Holder has actual knowledge at the time it becomes such Lender or Holder or which a Lender or Holder participates in or condones.

(2) The guarantee will be unenforceable to the extent that any loss is occasioned by:

(i) A provision for Interest on Interest, Default or penalty Interest, or late payment fees;

(ii) The violation of usury laws;

(iii) Use of loan proceeds for unauthorized purposes or to the extent that loan funds are used for purposes other than those specifically approved by the Agency in its Conditional Commitment;

(iv) Failure to obtain or maintain the required security regardless of the time at which the Agency acquires knowledge thereof; and

(v) Negligent Loan Origination or Negligent Loan Servicing unless otherwise determined under paragraph (d) of this section.

(3) The Agency will guarantee payment as follows:

(i) To any Holder, 100 percent of any loss sustained by the Holder on the guaranteed portion of the loan it owns and Interest through the Interest Termination Date due on such portion.

(ii) To the Lender, subject to the provisions of this part and subpart D of part 4287 of this chapter, the lesser of:

(A) Any loss sustained by the Lender on the guaranteed portion, including principal and Interest, through the Interest Termination Date, evidenced by the notes or assumption agreements and secured advances for protection and preservation of Collateral made with the Agency's authorization; or

(B) The guaranteed principal advanced to or assumed by the Borrower and any Interest due thereon through the Interest Termination Date.

(b) *Credit quality of Borrower.* The Agency will provide guarantees only after consideration is given to the Borrower's overall credit quality and to the terms and conditions of any applicable subsidies, tax credits, and other such incentives.

(c) *Quality of loan.* All loans guaranteed under this subpart must be financially sound and feasible, with reasonable assurance of repayment.

(d) *Gross negligence.* Upon written request of the Lender, the Agency will consider changing the negligence standard to Grossly Negligent Loan Origination and Grossly Negligent Loan

Servicing on a case-by-case basis. The Lender must establish to the Agency's satisfaction that changing to the gross negligence standard does not materially impair the Agency's interests, solely at the Agency's discretion, subject to:

(1) The lender has demonstrated capacity and experience in making and servicing loans of similar amounts and for transactions of comparable complexity;

(2) The Agency's review of the Lender's underwriting, loan approval and loan servicing policies and procedures, and;

(3) The Agency's review of the Lender's loan servicing plan.

§ 4279.221 Rights and liabilities.

When a guaranteed portion of a loan is sold to a Holder, the Holder will succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the portion purchased.

(a) The Lender will remain bound to all obligations under the Loan Note Guarantee, Lender's Agreement, and the Agency Program regulations.

(b) A guarantee and right to require purchase will be directly enforceable by a Holder notwithstanding any fraud or misrepresentation by the Lender or any unenforceability of the guarantee by the Lender, except for fraud or misrepresentation of which the Holder had actual knowledge at the time it became the Holder or in which the Holder participates or condones.

(c) The Lender must reimburse the Agency for any payments the Agency makes to a Holder of Lender's guaranteed loan that, under the Loan Note Guarantee, would not have been paid to the Lender had the Lender retained the entire interest in the guaranteed loan and not conveyed an interest to a Holder.

§ 4279.222 Payments.

A Lender will receive all payments of principal and Interest on account of the entire loan and must promptly remit to the Holder its Pro Rata share of any payment within 30 days of the Lender's receipt thereof from the Borrower, determined according to its respective interest in the loan, less only the Lender's servicing fee.

§ 4279.223 Sale or assignment of guaranteed loan.

The Lender may Participate or sell all or part of the guaranteed portion of the loan or retain the entire loan. The Lender must fully disburse and properly close a loan prior to sale of any portion of the Promissory Note(s). The Lender cannot Participate or sell any amount of the guaranteed or unguaranteed portion of the loan to the Borrower or its parent, subsidiary or Affiliate or to officers, directors, stockholders, other owners, or members of their Immediate Families. The Lender cannot share any premium received from the sale of a guaranteed loan in the secondary market with a Loan Packager or other Loan Service Provider. The participating Lenders and Holders and the Borrower can have no rights or obligations to one another. If the Lender desires to market all or part of the guaranteed portion of the loan at or subsequent to loan closing, such loan must not be in Default. Lenders may use either the single Promissory Note or multi-note system as outlined in paragraphs (a) and (b) of this section.

(a) *Single note system.* The entire loan is evidenced by one Promissory Note, and one Loan Note Guarantee is issued. When the loan is evidenced by one Promissory Note, the Lender may not at a later date cause any additional notes to be issued.

(1) The Lender may assign all or part of the guaranteed portion of the loan to one or more Holders by using the Assignment Guarantee Agreement. The Lender must retain title to the Promissory Note. The Lender must complete and execute the Assignment Guarantee Agreement and return it to the Agency for execution prior to Holder execution.

(2) A Holder, upon written notice to the Lender and the Agency, may reassign the unpaid guaranteed portion of the loan, in full, sold under the Assignment Guarantee Agreement. Holders may only reassign the guaranteed portion in the complete block they have received and cannot subdivide or further split the guaranteed portion of a loan or retain an Interest strip.

(3) Upon notification and completion of the assignment through the use of the Assignment Guarantee Agreement, the assignee shall succeed to all rights and obligations of the Holder thereunder. Subsequent assignments require notice to the Lender and Agency using any format, including that used by the Bond Market Association, together with the transfer of the original Assignment Guarantee Agreement.

(4) The Agency will neither execute a new Assignment Guarantee Agreement to effect a subsequent reassignment nor reissue a duplicate Assignment Guarantee Agreement unless:

(i) The original was lost, stolen, destroyed, mutilated, or defaced; and

(ii) The reissue is in accordance with § 4279.226.

(5) The Assignment Guarantee Agreement clearly states the percentage and corresponding amount of the guaranteed portion it represents and the Lender's servicing fee. A servicing fee may be charged by the Lender to a Holder and is calculated as a percentage per annum of the unpaid balance of the guaranteed portion of the loan assigned by the Assignment Guarantee Agreement. The Agency is not and will not be a party to any contract between the Lender and another party where the Lender sells its servicing fee in an Arm's Length Transaction. The Agency will not acknowledge, approve, or have any liability to any of the parties of such contract.

(b) *Multi-note system.* Under this option, the Lender may provide multiple Promissory Notes for the unguaranteed and the guaranteed portions of the loan. All Promissory Notes must reflect the same payment terms. When the Lender selects this option, the Holder will receive one of the Borrower's executed notes and a Loan Note Guarantee. The Agency will issue a Loan Note Guarantee for each Promissory Note, including the unguaranteed Promissory Note(s), to be attached to the Promissory Note(s). An Assignment Guarantee Agreement will not be used when the multi-note option is utilized.

§ 4279.224 Minimum retention.

The Lender is required to hold a minimum of 7.5 percent of the total loan amount. The amount required to be held must be of the unguaranteed portion of the loan and cannot be Participated to another Person. The Agency may reduce the minimum retention below 7.5 percent on a case by case basis when the Lender establishes to the Secretary's satisfaction that reduction of the minimum retention percentage is to meet compliance with the Lender's regulatory authority. The Lender must retain interest in the Collateral, and retain the servicing responsibilities for the guaranteed loan.

§ 4279.225 Repurchase from Holder.

(a) *Repurchase by Lender.* A Lender has the option to repurchase the unpaid guaranteed portion of the loan from a Holder within 30 days of written demand by the Holder when the Borrower is in Default not less than 60 days on principal or Interest due on the loan; or when the Lender has failed to remit to the Holder its Pro Rata share of any payment within 30 days of the Lender's receipt thereof from the Borrower. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued Interest less the Lender's servicing fee. The Holder must concurrently send a copy of the demand

letter to the Agency. The Lender must accept an assignment without recourse from the Holder upon repurchase. The Lender is encouraged to repurchase the loan, upon written demand from the Holder, to facilitate the accounting of funds, resolve any loan problem, and resolve the Default, where and when reasonable. The benefit to the Lender is that it may re-sell the guaranteed portion of the loan in order to continue collection of its servicing fee if the Default is cured. The Lender must notify, in writing, the Holder and the Agency of its decision.

(b) *Agency repurchase.* (1) The Lender's servicing fee will stop on the date that Interest was last paid by the Borrower when the Agency purchases the guaranteed portion of the loan from a Holder. The Lender cannot charge such servicing fee to the Agency and must apply all loan payments and Collateral proceeds received to the guaranteed and unguaranteed portions of the loan on a Pro Rata basis.

(2) If the Agency repurchases 100 percent of the guaranteed portion of the loan, the Agency will not continue collection of the Annual Renewal Fee from the Lender.

(3) If the Lender does not repurchase the unpaid guaranteed portion of the loan as provided in paragraph (a) of this section, the Agency will purchase from the Holder the unpaid principal balance of the guaranteed portion together with accrued Interest to date of repurchase or the Interest Termination Date, whichever is sooner, less the Lender's servicing fee, within 30 days after written demand to the Agency from the Holder.

(4) When Lender has accelerated the account, and subject to the expiration of any forbearance or workout agreement, the Lender, or the Agency at its sole discretion, must issue a letter to the Holder(s) establishing the Interest Termination Date. Accrued Interest to be paid to the Holder(s) will be calculated from the date Interest was last paid on the loan with a termination date not to exceed the Interest Termination Date.

(5) When the Lender has accelerated the account and the Lender holds all or a portion of the guaranteed loan, an estimated loss claim (loan in the liquidation process) must be filed by the Lender with the Agency within 60 days. Accrued Interest paid to the Lender will be calculated from the date Interest was last paid on the loan to the Interest Termination Date.

(6) The Holder's demand to the Agency must include a copy of the written demand made upon the Lender. The Holder must also include evidence of its right to require payment from the Agency. Such evidence must consist of either the original of the Loan Note Guarantee properly endorsed to the Agency or the original of the Assignment Guarantee Agreement properly assigned to the Agency without recourse including all rights, title, and interest in the loan. When the single-note system is utilized and the initial Holder has sold its interest, the current Holder must present the original Assignment Guarantee Agreement and an original of each Agency approved reassignment document in the chain of ownership, with the latest reassignment being assigned to the Agency without recourse, including all rights, title, and interest in the guarantee. The Holder must include in its demand the amount due including unpaid principal, unpaid Interest to date of demand, and Interest subsequently accruing from date of demand to proposed payment date. The Agency will be subrogated to all rights of the Holder.

(7) Upon request by the Agency, the Lender must furnish within 30 days of such request a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and Interest then owed by the Borrower on the loan and the amount then owed to any Holder, along with the information necessary for the Agency to determine the appropriate amount due the Holder. Any discrepancy between the amount claimed by the Holder and the information submitted by the Lender must be resolved between the Lender and the Holder before payment will be approved. Such conflict will suspend the running of the 30 day payment requirement.

(8) Purchase by the Agency neither changes, alters, nor modifies any of the Lender's obligations to the Agency arising from the loan or guarantee nor does it waive any of Agency's rights against the Lender. The Agency will have the right to set-off against the Lender all rights inuring to the Agency as the Holder of the instrument against the Agency's obligation to the Lender under the guarantee.

(c) *Repurchase for servicing.* If the Lender, Borrower, and Holder are unable to agree to restructuring of loan repayment, Interest rate, or loan terms to resolve any loan problem or resolve the Default and repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder must sell the guaranteed portion of the loan to the Lender for an amount equal to the unpaid principal and Interest on such portion less the Lender's servicing fee. The Lender must not repurchase from the Holder for arbitrage or other purposes to further its own financial gain. Any repurchase must only be made after the Lender obtains the Agency's written approval. If the Lender does not repurchase the guaranteed portion from the Holder, the Agency may, at its option, purchase such guaranteed portion for servicing purposes.

§ 4279.226 Replacement of document.

(a) The Agency may issue a replacement Loan Note Guarantee or Assignment Guarantee Agreement which was lost, stolen, destroyed, mutilated, or defaced to the Lender or Holder upon receipt of an acceptable certificate of loss and an indemnity bond.

(b) When a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the Lender or Holder, the Lender must coordinate the activities of the party who seeks the replacement documents and must submit the required documents to the Agency for processing. The requirements for replacement are as follows:

(1) A certificate of loss, notarized and containing a jurat, which includes:

(i) Name and address of owner;

(ii) Name and address of the Lender of record;

(iii) Capacity of Person certifying;

(iv) Full identification of the Loan Note Guarantee or Assignment Guarantee Agreement including the name of the Borrower, the Agency's case number, date of the Loan Note Guarantee or Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan, percentage of guarantee, and, if an Assignment Guarantee Agreement, the original named Holder and the percentage of the guaranteed portion of the loan assigned to that Holder. Any existing parts of the document to be replaced must be attached to the certificate;

(v) A full statement of circumstances of the loss, theft, destruction, defacement, or mutilation of the Loan Note Guarantee or Assignment Guarantee Agreement; and

(vi) For the Holder, evidence demonstrating current ownership of the Loan Note Guarantee and Promissory Note or the Assignment Guarantee Agreement. If the present Holder is not the same as the original Holder, a copy of the endorsement of each successive Holder in the chain of transfer from the initial Holder to present Holder must be included. If copies of the endorsement cannot be obtained, best available

records of transfer must be submitted to the Agency (*e.g.,* order confirmation, canceled checks, etc.).

(2) An indemnity bond acceptable to the Agency must accompany the request for replacement except when the Holder is the United States, a Federal Reserve Bank, a Federal corporation, a State or territory, or the District of Columbia. The indemnity bond must be with surety except when the outstanding principal balance and accrued Interest due the present Holder is less than $1 million verified by the Lender in writing in a letter of certification of balance due. The surety must be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 570.

(3) All indemnity bonds must be issued and payable to the United States of America acting through the Agency. The bond must be in an amount not less than the unpaid principal and Interest. The bond must hold the Agency harmless against any claim or demand that might arise or against any damage, loss, costs, or expenses that might be sustained or incurred by reasons of the loss or replacement of the instruments.

(4) In those cases where the guaranteed loan was closed under the provision of the multi-note system, the Agency will not attempt to obtain, or participate in the obtaining of, replacement Promissory Notes from the Borrower. The Holder is responsible for bearing the costs of Promissory Note replacement if the Borrower agrees to issue a replacement instrument. Should such Promissory Note be replaced, the terms of the Promissory Note cannot be changed. If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before the Agency will replace any instruments.

§ 4279.227 Equal Credit Opportunity Act.

In accordance with the Equal Credit Opportunity Act (15 U.S.C. 1691, *et seq.*), with respect to any aspect of a credit transaction, neither the Lender nor the Agency will discriminate against any applicant on the basis of race, color, religion, national origin, sex, marital status or age (providing the applicant has the capacity to contract), or because all or part of the applicant's income derives from a public assistance program, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act. The Lender must comply with the requirements of the Equal Credit Opportunity Act as contained in the Federal Reserve Board's Regulation implementing that Act (see 12 CFR part 202) prior to loan closing.

§§ 4279.228—4279.230 [Reserved]

Loan Processing

§ 4279.231 Fees.

(a) *Guarantee fee.* The guarantee fee is paid to the Agency by the Lender and is nonrefundable. The fee may be passed on to the Borrower. Issuance of the Loan Note Guarantee is conditioned on payment of the guarantee fee by closing. The guarantee fee will be the percentage specified in paragraphs (a)(1) or (2) of this section, as applicable, unless otherwise specified by the Agency in a notice published in the **Federal Register**, multiplied by the principal loan amount multiplied by the percent of guarantee and will be paid one time only at the time the Loan Note Guarantee is issued.

(1) For loans receiving a 90 percent guarantee, the guarantee fee is three percent.

(2) For loans receiving less than a 90 percent guarantee, the guarantee fee is:

(i) Two percent for guarantees on loans greater than 75 percent of total Eligible Project Costs.

(ii) One and one-half percent for guarantees on loans of greater than 65 percent but less than or equal to 75 percent of total Eligible Project Costs.

(iii) One percent for guarantees on loans of 65 percent or less of total Eligible Project Costs.

(b) *Annual Renewal Fee.* The Annual Renewal Fee, which may be passed on to the Borrower, is paid by the Lender to the Agency for as long as the guarantee is outstanding and is payable during the construction period.

(1) The amount of the annual renewal fee is calculated by the outstanding principal loan balance as of December 31 of each year multiplied by the Annual Renewal Fee rate, multiplied by the percent of guarantee. The rate is the rate in effect at the time the loan is obligated, and will remain in effect for the life of the loan.

(2) The Annual Renewal Fee is paid once a year and is required to maintain the enforceability of the guarantee as to the lender. Annual Renewal Rees are due on January 31. Payments not received by April 1 are considered delinquent and, at the Agency's discretion, may result in cancellation of the guarantee to the lender. Holders' rights will continue in effect as specified in the Loan Note Guarantee and Assignment Guarantee Agreement. Any delinquent Annual Renewal Fees will bear interest at the note rate and will be deducted from any loss payment due the lender. For loans where the Loan Note Guarantee is issued between October 1 and December 31, the first Annual Renewal Fee payment will be due January 31 of the second year following the date the Loan Note Guarantee was issued.

(3) When the Agency repurchases 100 percent of the guaranteed portion of the loan, the Agency will not continue collection of the Annual Renewal Fee.

(4) Unless otherwise specified by the Agency in a notice published in the **Federal Register**, the Annual Renewal Fee rate will be as follows:

(i) One hundred basis points (1 percent) for guarantees on loans that were originally greater than 75 percent of total Eligible Project Costs.

(ii) Seventy five basis points (0.75 percent) for guarantees on loans that were originally greater than 65 percent but less than or equal to 75 percent of total Eligible Project Costs.

(iii) Fifty basis points (0.50 percent) for guarantees on loans that were originally for 65 percent or less of Total Eligible Project Costs.

(c) *Routine Lender fees.* The Lender may establish charges and fees for the loan provided they are similar to those normally charged other applicants for the same type of loan in the ordinary course of business, and these fees are an eligible use of loan proceeds. The Lender must document such routine fees on Form RD 4279–1, ''Application for Loan Guarantee.'' The Lender may charge prepayment penalties and late payment fees that are stipulated in the loan documents, as long as they are reasonable and customary; however, the Loan Note Guarantee will not cover either prepayment penalties or late payment fees.

§ 4279.232 Guaranteed loan funding.

(a) The amount of a loan guaranteed for a Project under this subpart will not exceed 80 percent of total Eligible Project Costs. Total Federal participation will not exceed 80 percent of total Eligible Project Costs. The Borrower needs to provide the remaining 20 percent from non-Federal sources to complete the Project. Eligible Project Costs are specified in § 4279.210(d). If an eligible Borrower receives other direct Federal funding (*i.e.,* direct loans or grants) for a Project, the maximum amount of the loan that the Agency will guarantee under this subpart must be reduced by the same amount of the other direct Federal funding that the eligible Borrower received for the Project. For example, an eligible Borrower is applying for a loan guarantee on a $100,000,000 Project. If the Borrower receives no other direct Federal funding for this Project and

requests an $80,000,000 guaranteed loan, the Agency will consider a guarantee on the $80,000,000. However, if this Borrower receives $10,000,000 in other direct Federal funding for this Project, the Agency will only consider a guarantee on $70,000,000.

(b) The maximum principal amount of a loan guaranteed under this subpart is $250 million to one Borrower; there is no minimum amount.

(c) The maximum guarantee on the principal and Interest due on a loan guaranteed under this subpart will be determined as specified in paragraphs (c)(1) through (4) of this section.

(1) If the loan amount is equal to or less than $125 million, 80 percent for the entire loan amount unless all of the conditions specified in paragraphs (c)(1)(i) through (iii) of this section are met, in which case 90 percent for the entire loan amount.

(i) Total Federal participation, sum of the amount of the loan requested and other direct Federal funding, must not be greater than 60 percent of total Eligible Project Costs;

(ii) Feedstock and Off-Take Agreements of at least 1 year in duration; and

(iii) Total of revenues from tax credits, carbon credits, or other Federal or State subsidies cannot be greater than 10 percent of the Project's total revenues on an annual basis, in the Borrower's base case of financial projections.

(2) If the loan amount is more than $125 million and less than $150 million, 80 percent for the entire loan amount.

(3) If the loan amount is equal to or more than $150 million but less than $200 million, 70 percent on the entire loan amount.

(4) If the loan amount is $200 million up to and including $250 million, 60 percent on the entire loan amount.

§ 4279.233 Interest rates.

The Interest rate for the guaranteed loan will be negotiated between the Lender and the Borrower and may be either fixed or variable, or a combination thereof, as long as it is a legal rate. Interest rates will not be more than those rates the Lender customarily charges Borrowers for non-guaranteed loans in similar circumstances in the ordinary course of business and are subject to Agency review and approval. Lenders are encouraged to utilize the secondary market and pass Interest-rate savings on to the Borrower.

(a) A variable Interest rate must be a rate that is tied to a published base rate. The variable Interest rate must be specified in the Promissory Note and may be adjusted at specified intervals during the term of the loan, but the adjustments may not be more often than once each Calendar Quarter. The Lender must incorporate, within the variable rate Promissory Note at loan closing, the provision for adjustment of payment installments. The Lender must properly amortize the outstanding principal balance within the prescribed loan maturity in order to eliminate the possibility of a balloon payment at the end of the loan.

(b) Any change in the base rate or fixed Interest rate between issuance of the Conditional Commitment and the issuance of the Loan Note Guarantee must be approved by the Agency. Approval of such a change must be shown as an amendment to the Conditional Commitment and must be reflected on the Guaranteed Loan Closing Report.

(c) It is permissible to have different Interest rates on the guaranteed and unguaranteed portions of the loan.

§ 4279.234 Terms of loan.

The loan terms, other than Interest, must be the same for both the guaranteed and unguaranteed portions of the loan.

(a) The repayment term for a loan under this subpart will be no greater than the lesser of 20 years from the date of loan closing or the useful life of the Project, as determined by the Lender and confirmed by the Agency. Both the guaranteed and unguaranteed portions of the loan must be amortized over the same term.

(b) A loan's maturity will take into consideration the use of proceeds, the useful life of assets being financed, and the Borrower's ability to repay the loan.

(c) The first installment of principal and Interest will, if possible, be scheduled for payment after the Project is operational and has begun to generate income. However, the first full installment must be due and payable within three years from the date of the Promissory Note and be paid at least annually thereafter. In cases where there is an Interest-only period, Interest will be paid at least annually from the date of the Promissory Note.

(d) Only loans that require a periodic payment schedule that will retire the debt over the term of the loan without a balloon payment will be guaranteed except the final payment may be the funds held in the debt service reserve account.

§ 4279.235 Collateral.

The Lender is responsible for obtaining and maintaining proper and adequate Collateral to protect the interest of the Lender, the Holder, and the Agency. Collateral must be of such a nature that repayment of the loan is reasonably ensured when considered with the integrity and ability of Project management, soundness of the Project, and the Borrower's prospective earnings. The Collateral may include, but is not limited to, the following: Revenue, land, easements, rights-of-way, buildings, machinery, equipment, inventory, accounts receivable, contracts, cash, or other accounts, licenses and assignments of leases or leasehold interest.

(a) The entire loan, the guaranteed and unguaranteed portions, must be secured by a first lien on all assets of the Project including all assets in the Project budget. The Agency may consider a subordinate lien position on inventory and accounts receivable to Working Capital loans including revolving lines of credit provided the Agency determines the Working Capital is necessary for the operation and with the Subordination, the loan remains adequately secured.

(b) The entire loan must be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion.

§§ 4279.236–4279.242 [Reserved]

§ 4279.243 Insurance.

The Lender is responsible for ensuring that required insurance is maintained by the Borrower. The Lender must be shown as an additional insured on insurance policies (or other risk sharing instruments) that benefit the Project and must be able to assume any contracts that are material to the Project, including any feedstock or Off-Take Agreements, as may be applicable.

(a) *Hazard.* Hazard insurance with a standard clause naming the Lender as mortgagee or loss payee, as applicable, is required for the life of the guaranteed loan. The amount must be at least equal to the replacement value of the Collateral or the outstanding balance of the loan, whichever is the greater amount.

(b) *Life.* The Lender may require as Collateral an assignment of life insurance to insure against the risk of death of persons critical to the success of the business. When required, coverage must be in amounts necessary to provide for management succession or to protect the business. The Agency may require life insurance on key individuals for loans where the Lender has not otherwise proposed such coverage. The cost of insurance and its

effect on the applicant's Working Capital must be considered as well as the amount of existing insurance that could be assigned without requiring additional expense.

(c) *Worker compensation.* Worker compensation insurance is required in accordance with State law.

(d) *Flood.* National flood insurance is required in accordance with applicable law.

(e) *Other.* The Lender must consider whether public liability, business interruption, malpractice, and other insurance is appropriate to the Borrower's particular business and must require the Borrower to obtain such insurance as is necessary to protect the interests of the Borrower, the Lender, or the Agency.

§ 4279.244 Appraisals.

(a) Lenders must obtain appraisals for real estate when the value of the Collateral exceeds $250,000. Each appraisal must be reported in a manner that summarizes all of the information necessary for the intended users to understand the report and contain all information pertinent to the appraiser's opinions and conclusions.

(1) Appraisals must not be more than one year old, and a more recent appraisal may be requested by the Agency in order to reflect more current market conditions. For loan servicing purposes, an appraisal may be updated in lieu of a complete new appraisal when the original appraisal is more than one year old, but less than two years old.

(2) Specialized appraisers will be required to complete appraisals under this section. The Agency may approve a waiver of this requirement only if a specialized appraiser does not exist in a specific industry. The Agency will require documentation that the appraiser has the necessary experience and competency to appraise the property in question.

(3) All real property appraisals associated with Agency guaranteed loan origination and servicing transactions must meet the requirements contained in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 and the appropriate guidelines contained in Standards 1 and 2 of the Uniform Standards of Professional Appraisal Practices (USPAP) and be performed by a State Certified General Appraiser. Notwithstanding any exemption that may exist for transactions guaranteed by a Federal Government agency, all appraisals obtained by the Lender for origination and servicing must conform to the Interagency Appraisal and Evaluations Guidelines established by the Lender's primary Federal or State regulator.

(4) All appraisals must include consideration of the potential effects from a release of hazardous substances or petroleum products or other environmental hazards on the Market Value of the Collateral. The Lender must complete and submit its technical review of the appraisal. For construction Projects, the Lender must use the ''as-completed'' Market Value of the real estate to determine value of the real estate property. For all proposals, Lenders must obtain a Phase I Environmental Site Assessment in accordance with ASTM International Standards, which should be provided to the appraiser for completion of the appraisal. For additional guidance and information refer to ''Phase I Environmental Site Assessment,'' published by the American Society of Testing and Materials.

(b) Chattels must be evaluated in accordance with normal banking practices and generally accepted methods of determining value. Chattel appraisals must reflect the age, condition, and remaining useful life of the equipment. If the appraisal is completed by a State licensed/certified appraiser, the appraisal report must comply with USPAP Standards 7 and 8.

§ 4279.245 Personal and corporate guarantees.

(a) Unconditional personal and corporate guarantees are required for the full term of the loan from Persons owning 20 percent or greater interest in the borrower.

(b) When warranted by an Agency assessment and its credit evaluation, guarantees may also be required of parent, subsidiaries, affiliated companies, Persons owning less than a 20 percent interest in the borrower, or Persons whose ownership interest in the Borrower is held indirectly through intermediate entities.

(c) The Agency may require the guarantees to be secured.

(d) Partial guarantees and exemptions to the requirement for guarantees may be requested by the Lender and are subject to concurrence by the Agency approval official on a case-by-case basis when warranted by an Agency assessment and its credit evaluation in accordance with § 4279.215(b). If partial guarantees are required, the partial guarantee will be at least equal to each owner's percentage of interest in the Borrower multiplied by the loan amount.

(e) All personal and corporate guarantors must execute Form RD 4279–14, ''Unconditional Guarantee,'' and any guarantee form required by the Lender. The Agency will retain the original, executed Form RD 4279–14.

(1) Any amounts paid by the Agency on behalf of an Agency Borrower will constitute a Federal Debt owed to the Agency by the Borrower.

(2) Any amounts paid by the Agency pursuant to a claim by a Lender will constitute a Federal Debt owed to the Agency by a guarantor of the loan, to the extent of the amount of the guarantor's guarantee.

(3) In all instances under paragraphs (c)(1) and (2) of this section, Interest charges will be assessed at the Promissory Note Interest rate on the date a loss claim is paid.

§§ 4279.246–4279.255 [Reserved]

§ 4279.256 Construction planning and performing development.

The Lender and Borrower must comply with paragraphs (a) through (i) of this section. The Lender may contract for services and may rely on certain written materials and other reports to be provided by an independent engineer and other qualified third parties.

(a) *Design policy.* The Lender must monitor and require the Borrower ensure that all facilities constructed with Program funds are designed, and costs estimated, by an independent professional utilizing accepted architectural, engineering, and design practices and conform to applicable Federal, State, and local codes and requirements.

(b) *Project control.* (1) The Lender must monitor the progress of construction and confirm the reviews and inspections necessary to ensure that construction conforms to applicable Federal, State, and local code requirements have been performed; proceeds are used in accordance with the approved plans, specifications, and contract documents; and that loan funds are used for Eligible Project Costs in accordance with the purposes approved by the Agency in its Conditional Commitment. The Lender must expeditiously report any problems in Project development to the Agency.

(2) The Lender must ensure an onsite Project inspector or independent engineer monitors the Project.

(3) The Lender must monitor the Project to confirm that the Project will be completed with available funds and, once completed, will be used for its intended purpose and produce products in the quality and quantity proposed in the completed application approved by the Agency. Once construction is completed, the Lender must provide the

Agency with a copy of the notice of completion.

(4) Prior to the disbursement of construction funds, the Lender shall:

(i) Have on file the major drawings issued for construction and major equipment specifications issued for procurement;

(ii) Have a detailed timetable for the Project with a corresponding budget of costs, setting forth the parties responsible for payment;

(iii) Ensure that the independent engineer confirms that the budget is adequate for the Project;

(iv) Require the Borrower to have a firm fixed-price engineering, procurement and construction (EPC) contract in place which includes performance guarantees customary and reasonable for a project of this nature or engineering, construction, and procurement contracts in place with vendors and construction contractors for the construction of the Project, each on customary terms and conditions;

(v) Require provisions for change order approvals, a retainage percentage, and a disbursement schedule;

(vi) Require the Borrower to have contingencies in place to handle unforeseeable cost overruns without seeking additional Agency assistance. These contingencies must be agreed to by the Agency.

(c) *Changes and cost overruns.* The Borrower is responsible for any changes or cost overruns. If any such change or cost overrun occurs, then any change order must be expressly approved by the Agency, which approval shall not be unreasonably withheld, and neither the Lender nor Borrower will divert funds from purposes identified in the guaranteed loan application approved by the Agency to pay for any such change or cost overrun without the express written approval of the Agency. In no event will the current loan be modified or a subsequent guaranteed loan be approved to cover any such changes or costs. In the event of any of the aforementioned increases in cost or expenses, the Borrower must provide for such increases in a manner that does not diminish the Borrower's operating capital. Failure to comply with the terms of this paragraph (c) will be considered a Material Adverse Change in the Borrower's financial condition, and the Lender must address this matter, in writing, to the Agency's satisfaction.

(d) *New draw certifications.* The following three certifications are required for each new draw:

(1) Certification by the Project engineer to the Lender that the work referred to in the draw has been successfully completed;

(2) Certification that all debts have been paid and all mechanics' liens have been waived; and

(3) Certification that the Borrower is complying with the Davis-Bacon Act (see paragraph (h) of this section).

(e) *Surety.* Surety, as the term is commonly used in the industry, will be required. The Borrower must have either 100 percent performance/payment bonds on the contractors or a guarantee from a creditworthy parent entity or an alternative acceptable to the Lender and the Agency and must be secured. The bonding agent must be listed on Treasury Circular 570.

(f) *Equal opportunity.* For all construction contracts in excess of $10,000, the contractor must comply with Executive Order 11246, entitled ''Equal Employment Opportunity,'' as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations (41 CFR part 60). The Borrower and Lender are responsible for ensuring that the contractor complies with these requirements.

(g) *Americans with Disabilities Act (ADA).* Construction of or addition to facilities that accommodate the public or commercial facilities, as defined by the ADA, must comply with the ADA.

(h) *Wage rates.* As a condition of receiving a loan guaranteed under this subpart, each Borrower shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with guaranteed loan funds under this subpart shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, U.S.C. Awards under this subpart are further subject to the relevant regulations contained in 29 CFR part 5.

(i) *Reporting during construction.* Lenders must submit monthly construction and quarterly progress reports to the Agency, as specified in paragraphs (i)(1) and (2), respectively, of this section and the Borrower information specified in paragraph (i)(3) of this section.

(1) Monthly construction reports documenting the use of the Project funding until construction is completed. The reports must include the following:

(i) Certifications for each draw request:

(A) Certification by the independent engineer to the Lender that the work referred to in the draw has been successfully completed;

(B) Certification from the Borrower and independent engineer or that the proceeds of the prior draw have been applied to Eligible Project Costs in accordance with the draw request and that the contractors have delivered mechanics' lien waivers in connection with such draw; and

(C) Certification from the Borrower as to its compliance with the Davis-Bacon Act confirmed by the independent engineer;

(ii) List of invoices;

(iii) Detail of equity and Guaranteed Loan funds paid to date;

(iv) Status of construction and inspection reports; and

(v) Concerns, potential problems, cost overruns, etc.

(2) Quarterly progress reports by the end of each Calendar Quarter, unless more frequent ones are needed as determined by the Agency, through the time when the facility is producing at its designed capacity at a steady state. These reports must contain, at a minimum, planned and completed construction milestones, loan advances, and personnel hiring, training, and retention and commissioning and ramp-up milestones and performance reports. This requirement applies to both the development and construction of Commercial-Scale Biorefineries and to the Retrofitting of existing facilities using Eligible Technology for the development of Advanced Biofuels and Biobased Products including Renewable Chemicals. The Lender must expeditiously report any problems in Project development to the Agency.

(3) Once construction is completed, the Lender must provide the Agency with:

(i) A copy of all required material building permits, with sign-offs;

(ii) Notice of Completion or an Agency approved equivalent; and

(iii) Final accounting of sources and uses of all Project funds.

§§ 4279.257–4279.258 [Reserved]

§ 4279.259 Borrower responsibilities.

(a) *Federal, State, and local regulations.* Borrowers must comply with all Federal, State, and local laws and rules that are in existence and that affect the Project including, but not limited to:

(1) Land use zoning;

(2) Health, safety, and sanitation standards as well as design and installation standards; and

(3) Protection of the environment and consumer affairs.

(b) *Permits, agreements, and licenses.* Borrowers must obtain all permits,

agreements, and licenses that are applicable to the Project.

(c) *Insurance.* The Borrower is responsible for maintaining all hazard, flood, liability, worker compensation, and personal life insurance, when required, for the Project.

(d) *Access to Borrower's records.* Except as provided by law, upon request by the Agency, the Borrower will permit representatives of the Agency (or other Federal agencies as authorized by the Agency) to inspect and make copies of any of the records of the Borrower's Project. Such inspection and copying may be made during regular office hours of the Borrower or at any other time agreed upon between the Borrower and the Agency.

(e) *Access to the Project.* The Borrower must allow the Agency access to the Project and its performance information until the loan is repaid in full and permit periodic inspections of the Project by a representative of the Agency.

Applications

§ 4279.260 Guarantee applications—general.

(a) *Application submittal.* (1) For each guarantee request, the Lender or the Borrower must submit to the Agency a non-binding letter of intent to apply for loan guarantee not less than 30 calendar days prior to the application deadline as provided in paragraph (b) of this section. The letter must identify the Borrower, the Lender and Project sponsors; describe the Project and Project location; describe the proposed feedstock, primary technologies of the facility and primary products produced; estimate the Total Project Cost and amount of loan requested; and any additional information specified in the annual **Federal Register** notice, if any. Applications that do not submit a letter of intent may be accepted by the Agency at the Agency's discretion.

(2) For each guarantee request, the Lender must submit to the Agency an application that is in conformance with § 4279.261. The methods of application submittal will be specified in the annual **Federal Register** notice.

(b) *Application deadline.* Unless otherwise specified by the Agency in a notice published in the **Federal Register**, application deadlines are October 1 and April 1 of each year. Complete applications must be received by the Agency on or before April 1 of each year to be considered for funding for that fiscal year. If the application deadline falls on a weekend or an observed holiday, the deadline will be the next Federal business day. The deadlines in this paragraph (b) relate to Phase 1 applications in accordance with § 4279.261.

(c) *Incomplete applications.* Incomplete applications will be rejected. Lenders will be informed of the elements that made the application incomplete. If a resubmitted application is received by the applicable application deadline, the Agency will reconsider the application.

(d) *Application withdrawal.* During the period between the submission of an application and closing, the Lender must notify the Agency, in writing, if the Project is no longer viable or the Borrower is no longer requesting financial assistance for the Project. When the Lender so notifies the Agency, the Agency will rescind the selection or withdraw the application.

(e) *Application revisions and updates.* During the period between the submission of an application and closing, the Lender must notify the Agency, in writing, of revisions to the Project including but not limited to revisions to technology utilized in the Project, feedstock, Off-Take Agreements, ownership structure, and Project financing. The Agency may require submittal of updated application and supporting materials. The Agency will complete the application priority scoring in accordance with § 4279.266 based on the application materials received by the Agency prior to the application deadline. Subsequent changes to an application that result in a lower priority score could result in the Agency discontinuing processing of the application.

§ 4279.261 Application for loan guarantee content.

Lenders must submit a complete application for each loan guarantee sought under this subpart. Components of an application are submitted in two phases. Phase I applications, which are the initial application submissions, must contain the information specified in paragraphs (a) through (j) of this section, organized pursuant to a table of contents in a chapter format. Phase 2 application components may be submitted after the Agency invites the Lender and Borrower to make the phase 2 submittal and must contain the information specified in paragraph (k) of this section.

(a) *Project Summary.* Provide a concise summary of the proposed Project and application information, Project purpose and need, and Project goals, including the following:

(1) *Title.* Provide a descriptive title of the Project.

(2) *Borrower eligibility.* Describe how the Borrower meets the eligibility criteria identified in § 4279.209.

(3) *Project eligibility.* Describe how the Project meets the eligibility criteria identified in § 4279.210. Clearly state whether the application is for the construction and development of a Biorefinery or for the Retrofitting of an existing facility. Additional Project description information will be needed later in the application process.

(4) *Project funds.* Submit a Spreadsheet identifying sources, amounts, and availability of funds. The Spreadsheet must also include a directory of funds source contact information. Attach any applications, correspondence, or other written communication between Borrower and fund source.

(5) *Project timeline.* A projected timeline detailing the timeline commencing with the loan application phase 1, including the loan application phase 2, final Project planning and engineering, obtaining required permits, loan closing, plant construction, commissioning and ramp up through stabilized state of operation.

(b) *Application form.* Form RD 4279–1 or other Agency-approved application form if specified in a **Federal Register** notice.

(c) *Financial statements.* (1) The most recent audited financial statements of the Borrower, unless alternative financial statements are authorized by the Agency; and

(2) A current (not more than 90 days old) balance sheet and a pro forma balance sheet at startup.

(d) *Financial model.* Submit a financial model for the Project in the form of a financial modeling software program in an active electronic format which includes, but is not limited to, a projected Project budget and projected balance sheets, income and expense statements, cash flow statements, and Working Capital and capital expense projections for not less than the term of the loan. The projections must be displayed in a monthly format for a period of three years after stabilized operation and annually thereafter. Projections should be supported by a list of assumptions showing the basis for the projections. Depending on the complexity of the Project and the financial condition of the Borrower, the Agency may require additional financial statements and additional related information.

(e) *Feasibility Study.* The Feasibility Study should be prepared by a qualified, independent third party using information gathered from other qualified parties and documents such

as: independent engineer reports, marketing studies, feedstock studies, business plans and financial statements prepared by a certified public accountant. Any information used to prepare the Feasibility Study should be submitted as attachments. Elements in an acceptable Feasibility Study include, but are not limited to, the elements outlined in Table 1 of this section.

TABLE 1—FEASIBILITY STUDY COMPONENTS

(A) Executive summary

Introduction/Project Overview (Brief general overview of Project location, size, etc.).
Economic feasibility determination.
Market feasibility determination.
Technical feasibility determination.
Financial feasibility determination.
Management feasibility determination.
Recommendations for implementation.

(B) Economic Feasibility

Description of feedstock and confirmation that the feedstock is not used elsewhere in the production of Advanced Biofuels or Biobased Products including Renewable Chemicals.
Feedstock:
- Feedstock source management,
- Estimates of feedstock volumes and costs,
- Collection, pre-treatment, transportation, and storage, and
- Feedstock risks.

Documentation that woody biomass feedstock from National Forest system lands or public lands cannot be used for a higher-value product.
Impacts on any other similar Biorefineries in the area in which the Borrower proposes to place the Project, defined as the area that will supply the feedstock to the proposed Project, if any.
Impacts on existing manufacturing plants or other facilities that use similar feedstock if the Borrower's proposed production technology is adopted.
Projected impact on resource conservation, public health, and the environment.
Information regarding Project site.
Availability of trained or trainable labor.
Availability of infrastructure, including utilities, and rail, air and road service to the site.
Overall economic impact of the Project, including direct jobs, indirect jobs, additional markets created for agricultural and forestry products and agricultural waste material and the potential for Rural economic development.
Feasibility/plans of Project to work with producer associations or cooperatives and the estimated amount of annual feedstock purchased from or sold to producer associations and cooperatives.

(C) Market Feasibility

Information on the sales organization and management.
Nature and extent of market and market area.
Marketing plans for sale of projected output—principal products and Byproducts.
Extent of competition, including other similar facilities in the market area.
Commitments from purchasers of off-take—principal products and secondary products, degree of commitment, duration or terms of Off-Take Agreements, and financial strength of counterparties.
Risks related to the industry, including:
- Industry status;
- Specific market risks; and
- Competitive threats and advantages.

(D) Technical Feasibility

Suitability of the selected site for the intended use.
Scale of development for which the process technology has been proven (*i.e.,* pilot, demonstration, or Semi-Work Scale Facility). Provide results from pilot, demonstration, or Semi-Work Scale Facilities that prove that the technology proposed to be used is feasible and stands a good chance of being successful. The proposed technology must meet the definition of Eligible technology.
The degree of integration of all processes should be detailed and a summary of any integrated demonstration unit test results should be submitted.
Specific volume produced from the technology of the process (expressed either as volume of feedstock processed [tons per unit of time] or as product [gallons per unit of time]).
Identification and estimation of Project operation and development costs. Specify the level of accuracy of these estimates and the assumptions on which these estimates have been based. Detailed analysis of Project costs including: Project management and professional services; resource assessment; Project design and permitting; land agreements and site preparation; equipment requirements and system installation; startup and shakedown; and warranties, insurance, financing and operation and maintenance costs.
A projected timeline detailing Borrower plans from the time of loan application through plant construction, commissioning and ramp up should be included.
Ability of the proposed system to be commercially replicated.
Risks related to:
- Construction of the Biorefinery;
- Production of the Advanced Biofuel and Biobased Product including Renewable Chemical;
- Regulation and governmental action;
- Design-related factors that may affect Project success; and
- Technology scale up risk.

(E) Financial Feasibility

Reliability of the financial projections and the assumptions on which the financial statements are based, including all sources and uses of Project capital, private or public Federal and non-Federal funds. Provide detailed analysis and description of projected balance sheets, income and expense statements, and cash flow statements over the useful life of the Project.
A detailed description of and the degree financial feasibility is dependent on:

TABLE 1—FEASIBILITY STUDY COMPONENTS—Continued

Investment incentives;
Productivity incentives;
Loans and grants; and
Other Project authorities RINs value, tax credits, other credits, and subsidies that affect the Project.
Any constraints or limitations in the financial projections.
Ability of the business to achieve the projected income and cash flow.
Assessment of the cost accounting system.
Availability of short-term credit or other means to meet seasonal business costs.
Adequacy of raw materials and supplies.
Sensitivity analysis, including feedstock and energy costs and product and Byproduct prices.
Risks related to:
The Project;
Borrower financing plan;
The operational units; and
Tax issues.
(F) Management Feasibility
Borrower and/or management's previous experience concerning:
Production of Advanced Biofuel, and Biobased Product including Renewable Chemicals, as applicable;
Acquisition of feedstock;
Marketing and sale of off-take; and
The receipt of Federal financial assistance, including amount of funding, date received, purpose, and outcome.
Management plan for procurement of feedstock and labor, marketing of the off-take, and management succession.
Risks related to:
Borrower as a company (*e.g.,* development-stage);
Conflicts of Interest; and
Management strengths and weaknesses.
(G) Qualifications
A resume or statement of qualifications of the author and contributors of the Feasibility Study, including prior experience, must be submitted.

(f) *Business Plan.* The Lender must submit the Borrower's business plan that includes the information specified in paragraphs (f)(1) through (10) of this section. Any or all of this information may be omitted if it is included in the Feasibility Study specified in paragraph (e) of this section.

(1) Describe or provide an organizational chart of the Borrower's ownership structure and affiliation with other entities, if any. The names and a description of the relationship of the Borrower's parent, Affiliates, and subsidiaries. Identify local ownership.

(2) The Borrower's succession planning, addressing both ownership and management.

(3) The Borrower's experience and management experience.

(4) The products and services to be provided and the Borrower's business strategy.

(5) Possible vendors and models of major system components.

(6) The availability of the resources (*e.g.,* labor, raw materials, supplies) necessary to provide the planned products and services.

(7) Site location and its relation to product distribution (*e.g.,* rail lines or highways) and any land use or other permits necessary to operate the facility.

(8) The market for the product and its competition, including any and all competitive threats and advantages.

(9) Projected balance sheets, income and expense statements, and cash flow statements for a period of not less than three years of stabilized operation.

(10) A description of the proposed use of funds.

(g) *Scoring information.* The application must contain information in a format that is responsive to the scoring criteria specified in § 4279.266.

(h) *Intergovernmental consultation.* Intergovernmental consultation comments in accordance with 2 CFR part 415, subpart C or successor regulation.

(i) *DUNS Number.* For Borrowers other than individuals, a Dun and Bradstreet Universal Numbering System (DUNS) number, which can be obtained online at *http://fedgov.dnb.com/webform.*

(j) *Other information.* Any other information determined by the Agency to be necessary to evaluate the application.

(k) *Phase 2 application contents.* (1) Updates, as appropriate, to contents of application materials submitted in application phase 1.

(2) An appraisal conducted as specified under § 4279.244.

(3) A proposed Loan Agreement or a sample Loan Agreement with an attached list of the proposed Loan Agreement provisions as specified in paragraphs (k)(3)(i) through (ix) of this section.

(i) Prohibition against assuming liabilities or obligations of others.

(ii) Restriction on dividend payments.

(iii) Limitation on the purchase or sale of equipment and fixed assets.

(iv) Limitation on compensation of officers and owners.

(v) Minimum Working Capital or current ratio requirement.

(vi) Maximum debt-to-net worth ratio.

(vii) Restrictions concerning consolidations, mergers, or other circumstances.

(viii) Limitations on selling the business without the concurrence of the Lender.

(ix) Repayment and amortization of the loan.

(4) Environmental Assessment must meet the policies and requirements of the National Environmental Policy Act and the Agency (as specified in Exhibit H of 7 CFR part 1940, subpart G.) Guidelines for preparing the Environmental Assessment are available from the Agency and published in the annual **Federal Register** notice.

(5) Under the direction of the Agency, an evaluation and rating of the total Project's indebtedness, without consideration for a government guarantee, from a nationally-recognized statistical rating organization (NRSRO), as defined by the U.S. Security and Exchange Commission, for all Projects with total Eligible Project Costs of $25 million or more unless as otherwise specified by the Agency in a notice published in the **Federal Register**. The evaluation and rating must be in the form of an indicative private rating,

private credit analysis, or comparable analysis report and include a rating in accordance with the NRSRO's credit rating scales and include a recovery analysis. An updated rating may be required at the Agency's discretion if changes are subsequently made to the Project including changes to any contracts and agreements or changes to loan terms and conditions.

(6) Lender's analysis and credit evaluation that conforms to § 4279.215 and must include the information specified in paragraphs (k)(6)(i) and (ii) of this section.

(i) The credit reports of the Borrower, its principals, and any parent, Affiliate, or subsidiary as follows:

(A) Unless otherwise determined by the Agency, a personal credit report from an Agency-approved credit reporting company for individuals who are key employees of the Borrower, as determined by the Agency, and for individuals owning 20 percent or more interest in the Borrower or any owner with more than 10 percent ownership interest in the Borrower if there is no owner with more than 20 percent ownership interest in the Borrower, except for when the Borrower is a corporation listed on a major stock exchange; and

(B) Commercial credit reports on the Borrower and any parent, Affiliate, and subsidiary firms.

(ii) Financial and sensitivity review using a financial modeling software program or a banking industry software analysis program with industry standards, when appropriate.

(7) Whether the Loan Note Guarantee is requested prior to construction or after completion of construction of the Project.

(8) The technical assessment must be completed by a qualified independent engineer and must demonstrate that the design, procurement, installation, startup, operation and maintenance of the Project will permit it to operate or perform as specified over its useful life in a reliable and a cost effective manner, and must identify what the useful life of the Project is. The technical assessment must also identify all necessary Project agreements, demonstrate that those agreements will be in place at or before the time of loan closing, and demonstrate that necessary Project equipment and services will be available over the useful life of the Project. The technical assessment must be based upon verifiable data and contain sufficient information and analysis so that a determination can be made on the technical feasibility of achieving the levels of income or production that are projected in the financial statements. All technical information provided must follow the format specified in paragraphs (k)(8)(i) through (ix) of this section. Supporting information may be submitted in other formats. Design drawings and process flow charts are required as exhibits. A discussion of a topic identified in paragraphs (k)(8)(i) through (ix) of this section is not necessary if the topic is not applicable to the specific Project. Questions identified in the Agency's technical review of the Project must be answered to the Agency's satisfaction before the application will be approved. All Projects require the services of an independent, third-party professional engineer.

(i) *Qualifications of Project team.* The Project team will vary according to the complexity and scale of the Project. The Project team must have demonstrated expertise in similar Advanced Biofuel and Biobased Product including Renewable Chemical, as applicable, technology development, engineering, installation, and maintenance. Identify Borrower's, including its principals', prior experience in bioenergy projects and the receipt of Federal financial assistance, including the amount of funding, date received, purpose, and outcome, for such projects. Authoritative evidence that Project team service providers have the necessary professional credentials or relevant experience to perform the required services for the development, construction, and Retrofitting, as applicable, of technology for producing Advanced Biofuels and Biobased Products including Renewable Chemicals, if applicable, must be provided. In addition, authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the facility to operate over its useful life must be provided. The application must:

(A) Discuss the proposed Project delivery method. Such methods include a design-bid-build method, where a separate engineering firm may design the Project and prepare a request for bids and the successful bidder constructs the Project at the Borrower's risk, and a design -build method, often referred to as ''turnkey,'' where the Borrower establishes the specifications for the Project and secures the services of a developer who will design and build the Project at the developer's risk;

(B) Discuss the manufacturers of major components of Advanced Biofuels and Biobased Product including Renewable Chemical technology equipment being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(C) Discuss the Project team members' qualifications for engineering, designing, and installing similar projects, including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating, with references if available; and

(D) Describe the facility operator's qualifications and experience for servicing, operating, and maintaining such equipment or projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating, with references if available.

(ii) *Agreements and permits.* The application must identify all necessary agreements and permits required for the Project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (k)(8)(ii)(A) through (F) of this section.

(A) All facilities funded under this subpart must be installed in accordance with applicable local, State, and national codes and applicable local, State, and Federal regulations. Identify zoning and code requirements and necessary permits and the schedule for meeting those requirements and securing those permits.

(B) Identify licenses where required and the schedule for obtaining those licenses.

(C) Identify land use agreements required for the Project, the schedule for securing those agreements, and the term of those agreements.

(D) Identify any permits or agreements required for solid, liquid, and gaseous emissions or effluents and the schedule for securing those permits and agreements.

(E) Identify available component warranties for the specific Project location and size.

(F) Identify all environmental issues, including environmental compliance issues, associated with the Project.

(iii) *Resource assessment.* The application must provide adequate and appropriate evidence of the availability of the feedstocks required for the facility to operate as designed. Indicate the type and quantity of the feedstock, and discuss storage of the feedstock, where applicable, and competing uses for the feedstock. Indicate shipping or receiving methods and required infrastructure for shipping, and other appropriate transportation mechanisms including methods and systems to prevent the spread of invasive species. For proposed

Projects with an established resource, provide a summary of the resource.

(iv) *Design and engineering.* The application must provide authoritative evidence that the facility will be designed and engineered so as to meet its intended purposes, will ensure public safety, and will comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Each facility must be engineered as a complete, integrated facility. The engineering must be comprehensive, including site selection, systems and component selection, and systems monitoring equipment. All Projects funded under this subpart must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the Project, including location of the Project; resource characteristics, including the kind and amount of feedstocks; facility specifications; kind, amount, and quality of the output; and monitoring equipment. Address performance on a monthly and annual basis. Describe the uses of or the market for the Advanced Biofuels and Biobased Product including Renewable Chemical produced by the facility. Discuss the impact of reduced or interrupted feedstock availability on the facility's operations.

(B) The application must include:

(*1*) A description of the Project site that addresses issues such as site access, foundations, and backup equipment when applicable;

(*2*) A completed Form RD 1940–20 and an environmental assessment prepared in accordance with Exhibit H of 7 CFR part 1940, subpart G; and

(*3*) Identification of any unique construction and installation issues.

(C) Sites must be controlled by the eligible Borrower for at least the financing term of the Loan Note Guarantee.

(v) *Project development schedule.* The application must describe each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the Project through startup and shakedown. Provide a detailed description of the Project timeline including resource assessment, Project and site design, permits and agreements, equipment procurement, and Project construction from excavation through startup and shakedown.

(vi) *Equipment procurement.* The application must demonstrate that equipment required by the facility is available and can be procured and delivered within the proposed Project development schedule. Projects funded under this subpart may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory.

(vii) *Equipment installation.* The application must provide a full description of the management of and plan for site development and systems installation, details regarding the scheduling of major installation equipment needed for Project construction, and a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the facility as a whole.

(viii) *Operations and maintenance.* The application must provide the operations and maintenance requirements of the facility necessary for the facility to operate as designed over its useful life. The application must also include:

(A) Information regarding available facility and component warranties and availability of spare parts;

(B) A description of the routine operations and maintenance requirements of the proposed facility, including maintenance schedules for the mechanical, piping, and electrical systems and system monitoring and control requirements, as well as provision of information that supports expected useful life of the facility and timing of major component replacement or rebuilds;

(C) A discussion of the costs and labor associated with operating and maintaining the facility and plans for in-sourcing or outsourcing. A description of the opportunities for technology transfer for long-term Project operations and maintenance by a local entity or owner/operator; and

(D) Provision and discussion of the risk management plan for handling large, unanticipated failures of major components.

(ix) *Decommissioning.* A description of the decommissioning process, when the Project must be uninstalled or removed. A description of any issues, requirements, and costs for removal and disposal of the facility.

§§ 4279.262–4279.264 [Reserved]

§ 4279.265 Guarantee application processing.

(a) *Eligibility determination.* Upon receipt of a complete Phase 1 application, the Agency will determine if the Borrower, Lender, and Project are eligible and if the Project is technically and economically feasible, as provided under paragraph (b) of this section.

(1) If the Borrower, Lender, or the Project is determined to be ineligible for any reason, the Agency will inform the Lender, in writing, of the reasons. No further evaluation of the application will occur.

(2) If the Agency determines it is unable to guarantee the loan, the Agency will inform the Lender in writing. Such notification will include the reasons for denial of the guarantee.

(b) *Technical and economic feasibility.* (1) The Agency's determination of a Project's technical and economic feasibility will be based on:

(i) The Agency's analysis of the technical report and Feasibility Study submitted in the application conducted by qualified independent third parties;

(ii) The Lenders credit evaluation; and

(iii) Other application materials.

(2) The Agency's determination of a Project's technical feasibility will be based on the technical report. In addition, prior to loan closing of a Project utilizing technology that does not have a history of successful utilization in a Commercial-Scale operation of a Biorefinery that produces an Advanced Biofuel, evidence demonstrating 120 days of continuous, steady state production from an integrated demonstration unit must be provided by the Borrower to the Lender and the Agency for review and determination of technical feasibility. Authoritative demonstration campaign results must be provided in 30-day intervals. The integrated demonstration unit must prove out the Project's ability to utilize Project-relevant biomass and produce Advanced Biofuel at a yield and quality consistent with the design basis of the Project. The Borrower must provide to the Agency, for review and approval, sufficient information on the integrated campaign design so as to ensure operation duration, quality, and quantity specifications are met and incorporated into the final design criteria for the commercial facility.

(3) Projects determined by the Agency to be without technical or economic feasibility will not be selected for funding.

§ 4279.266 Guarantee application scoring.

Using the evaluation criteria identified in this section, the Agency will score each eligible Biorefinery application that meets the minimum requirements for technical and economic feasibility. A maximum of 125 points is possible. The Agency will

award points based on its review and analysis of all application materials. Clarifications for the scoring on Biobased Product Manufacturing applications will be made available by a notice published in the **Federal Register**.

(a) Whether the Borrower has established a market for the Advanced Biofuel and the Biobased Products including Renewable Chemicals, as applicable. A maximum of 20 points can be awarded. Points to be awarded will be determined as follows:

(1) *Degree of commitment of Off-Take Agreements.* A maximum of 6 points will be awarded.

(i) If the Borrower has signed Off-Take Agreements for purchase for greater than 50 percent of the dollar value of off-take, 6 points will be awarded.

(ii) If the Borrower has signed letters of intent to enter into Off-Take Agreements, or comparable documentation, for the purchase for greater than 50 percent of the dollar value of off-take, or combination of signed contracts or agreements and letters of intent or comparable documentation, 4 points will be awarded.

(iii) If the Borrower has signed letters of interest to enter into Off-Take Agreements, or comparable documentation, for the purchase for greater than 50 percent of the dollar value of off-take, or combination of signed Off-Take Agreements, letters of intent, letters of intent or comparable documentation, 2 points will be awarded.

(2) *Duration of Off-Take Agreements.* A maximum of 6 points will be awarded.

(i) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take for the period not less than the loan term, 6 points will be awarded.

(ii) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take for the period not less than five years but less than the term of the loan, 4 points will be awarded.

(iii) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take for the period not less than one year but less than five years, 2 points will be awarded.

(3) *Financial strength of the off-take counterparty.* A maximum of 4 points will be awarded.

(i) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take with an off-take counterparty with a corporate credit rating not less than AA, Aa2, or equivalent, 4 points will be awarded.

(ii) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take with an off-take counterparty with a corporate credit rating less than AA, Aa2, or equivalent, but not less than A-, or A3, or equivalent, 2 points will be awarded.

(iii) If the Borrower commits to enter into Off-Take Agreements prior to loan closing for purchase for greater than or equal to 50 percent of the dollar value of off-take with an off-take counterparty with a corporate credit rating less than A-, or A3, or equivalent, but not less than BBB-, or Baa3, or equivalent, 1 point will be awarded.

(4) *Revenue dependency on tax credits, carbon credits, or other Federal or State subsidies.* A maximum of 4 points will be awarded.

(i) If total of revenues from tax credits, carbon credits, or other Federal or State subsidies is less than or equal to 10 percent of the Project's total revenues on an annual basis, in the Borrower's base case of financial projections, 4 points will be awarded.

(ii) If total of revenues from tax credits, carbon credits, or other Federal or State subsidies is greater than 10 percent but less than or equal to 20 percent of the Project's total revenues on an annual basis, in the Borrower's base case of financial projections, 2 points will be awarded.

(iii) If total of revenues from tax credits, carbon credits, or other Federal or State subsidies is greater than 20 percent but less than or equal to 30 percent of the Project's total revenues on an annual basis, in the Borrower's base case of financial projections, 1 point will be awarded.

(b) Whether the area in which the Borrower proposes to place the Project, defined as the area that will supply the feedstock to the proposed Project, has any other similar facilities. A maximum of 5 points can be awarded. Points to be awarded will be determined as follows:

(1) If the area that will supply the feedstock to the proposed Project does not have any other similar facilities, 5 points will be awarded.

(2) If there are other similar facilities located within the area that will supply the feedstock to the proposed Project, 0 points will be awarded.

(c) Whether the Borrower is proposing to use a feedstock or biobased output of Biorefineries not previously used in the production of Advanced Biofuels or Biobased Products including Renewable Chemicals. A maximum of 10 points can be awarded. Points to be awarded will be determined as follows:

(1) If the Borrower proposes to use a feedstock previously used in the production of Advanced Biofuels and Biobased Product including Renewable Chemicals in a commercial facility, 0 points will be awarded.

(2) If the Borrower proposes to use a feedstock not previously used in production of Advanced Biofuels and Biobased Product including Renewable Chemicals in a commercial facility, 10 points will be awarded.

(d) Whether the Borrower is proposing to work with producer associations or cooperatives. A maximum of 5 points can be awarded. Points to be awarded will be determined as follows:

(1) If at least 50 percent of the dollar value of feedstock to be used by the proposed Project will be supplied by producer associations and cooperatives, 5 points will be awarded.

(2) If at least 30 percent of the dollar value of feedstock to be used by the proposed Project will be supplied by producer associations and cooperatives, 3 points will be awarded.

(e) The level of financial participation by the Borrower, including support from non-Federal government sources and private sources. A maximum of 20 points can be awarded. Points to be awarded will be determined as follows:

(1) If the sum of the loan amount requested and other direct Federal funding is less than or equal to 50 percent of total Eligible Project Cost, 20 points will be awarded.

(2) If the sum of the loan amount requested and other direct Federal funding is greater than 50 percent but less than or equal to 55 percent of total Eligible Project Cost, 16 points will be awarded.

(3) If the sum of the loan amount requested and other direct Federal funding is greater than 55 percent but less than or equal to 60 percent of total Eligible Project Cost, 12 points will be awarded.

(4) If the sum of the loan amount and other direct Federal funding is greater than 60 percent but less than or equal to 65 percent of total Eligible Project Cost, 8 points will be awarded.

(5) If the sum of the loan amount and other direct Federal funding is greater than 65 percent but less than or equal to 70 percent of total Eligible Project Cost, 4 points will be awarded.

(f) Whether the Borrower has established that the adoption of the process proposed in the application will

have a positive effect on three impact areas: resource conservation (*e.g.,* water, soil, forest), public health (*e.g.,* potable water, air quality), and the environment (*e.g.,* compliance with an applicable renewable fuel standard, greenhouse gases, emissions, particulate matter). A maximum of 10 points can be awarded. Points to be awarded will be determined as follows:

(1) If process adoption will have a positive impact on any one of the three impact areas (resource conservation, public health, or the environment), 3 points will be awarded.

(2) If process adoption will have a positive impact on two of the three impact areas, 6 points will be awarded.

(3) If process adoption will have a positive impact on all three impact areas, 10 points will be awarded.

(4) If the Project proposes to use a feedstock that can be used for human or animal consumption, 5 points will be deducted from the score.

(g) Whether the Borrower can establish that, if adopted, the technology proposed in the application will not have any economically significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks or biobased outputs of Biorefineries. A maximum of 5 points can be awarded. Points to be awarded will be determined as follows:

(1) If the Borrower has failed to establish, through an independent third-party Feasibility Study, that the production technology proposed in the application, if adopted, will not have any economically significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks, 0 points will be awarded.

(2) If the Borrower has established, through an independent third-party Feasibility Study, that the production technology proposed in the application, if adopted, will not have any economically significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks, 5 points will be awarded.

(3) If the feedstock is wood pellets, no points will be awarded under this criterion.

(h) The potential for Rural economic development. A maximum of 20 points will be awarded. Points to be awarded will be determined as follows:

(1) If the Project is located in a Rural Area, 5 points will be awarded.

(2) If the Project creates jobs through direct employment with an average wage that exceeds the County median household wages where the Project will be located, 5 points will be awarded.

(3) If the majority of feedstock to be utilized by the Project, on an annual basis, is harvested from the land, 10 points will be awarded.

(i) The level of local ownership of the facility proposed in the application. A maximum of 5 points can be awarded. Points to be awarded will be determined as follows:

(1) If Local Owners have an ownership interest in the facility of more than 20 percent but less than or equal to 50 percent, 3 points will be awarded.

(2) If Local Owners have an ownership interest in the facility of more than 50 percent, 5 points will be awarded.

(j) Whether the Project can be replicated. A maximum of 10 points can be awarded. Points to be awarded will be determined as follows:

(1) If the Project can be commercially replicated regionally (*e.g.,* Northeast, Southwest, etc.), 5 points will be awarded.

(2) If the Project can be commercially replicated nationally, 10 points will be awarded.

(k) If the Project uses a particular technology, system, or process that is not currently operating at Commercial Scale as of October 1 of the fiscal year for which the funding is available, 5 points will be awarded.

(l) The Administrator can award up to a maximum of 10 bonus points:

(1) To ensure, to the extent practical, there is diversity in the types of Projects approved for loan guarantees to ensure as wide a range as possible technologies, products, and approaches are assisted in the Program portfolio; and

(2) To applications that promote partnerships and other activities that assist in the development of new and emerging technologies for the development of Advanced Biofuels and Biobased Products including Renewable Chemicals, so as to, as applicable, increase the energy independence of the United States or reduce our dependence on petroleum-based chemicals and products; promote resource conservation, public health, and the environment; diversify markets for agricultural and forestry products and agriculture waste material; and create jobs and enhance the economic development of the Rural economy. These partnerships and other activities will be identified in a **Federal Register** notice each fiscal year.

§ 4279.267 Selecting guarantee applications.

(a) *Allocation of budget authority.* In administering this Program's budgetary authority each fiscal year, the Agency will allocate up to, but no more, than 50 percent of its budgetary authority, excluding funding for Biobased Product Manufacturing Projects, to fund applications received by the end of the first application window, including those carried over from the previous application period. Any funds not obligated to support applications submitted by the end of the first application window will be available to support applications received by the end of the second window, including those carried over from the previous application period. The Agency, therefore, will have a minimum of 50 percent of each fiscal year's budgetary authority for this Program available to support applications received by the end of the second application window. Administrative procedures for the funding of Biobased Product Manufacturing Projects will be made available by a Notice published in the **Federal Register**.

(b) *Ranking of applications.* The Agency will rank all complete eligible applications to create a priority list of scored Phase 1 applications for the Program. Unless otherwise specified in a notice published in the **Federal Register**, the Agency will rank applications by approximately October 31 for complete and eligible applications received on or before October 1 and by approximately April 30 for complete and eligible applications received on or before April 1. All Phase 1 applications received on or before October 1 and April 1 will be ranked by the Agency and will be competed against the other applications received on or before such date.

(c) *Selection of applications for funding.* The Agency will invite applicants to submit Phase 2 applications based on the criteria specified in paragraphs (c)(1) through (3) of this section. The Agency will notify, in writing, Lenders whose applications have been selected.

(1) *Ranking.* The Agency will consider the score an application has received compared to the scores of other applications in the priority list created under paragraph (b) of this section, with highest scoring applications receiving first consideration for invitation to the phase 2 submittal. A minimum score of 55 points is required in order to be considered for a guarantee.

(2) *Availability of budgetary authority.* The Agency will consider the size of the request relative to the budgetary authority that remains available to the Program during the fiscal year.

(i) If there is insufficient budgetary authority during a particular funding period to select a higher scoring application, the Agency may elect to select the next highest scoring

application for further processing. Before this occurs, the Agency will provide the Borrower of the higher scoring application the opportunity to reduce the amount of its request to the amount of budgetary authority available. If the Borrower agrees to lower its request, it must certify that the purposes of the Project can be met, and the Agency must determine the Project is financially feasible at the lower amount.

(ii) If the amount of funding required is greater than 25 percent of the Program's outstanding budgetary authority, the Agency may elect to select the next highest scoring application for further processing, provided the higher scoring Borrower is notified of this action and given an opportunity to revise their application and resubmit it for an amount less than or equal to 25 percent of the Program's outstanding budgetary authority.

(3) *Availability of other funding sources.* If other financial assistance is needed for the Project, the Agency will consider the availability of other funding sources. If the Lender cannot demonstrate that funds from these sources are available at the time of selecting applications for funding or potential funding, the Agency may instead select the next highest scoring application for further processing ahead of the higher scoring application.

(d) *Ranked applications not selected for phase 2.* A ranked application that is not invited to submit phase 2 in the application cycle in which it was submitted will be carried forward one additional application cycle, which may be in the next fiscal year. The Agency will notify the Lender in writing.

§§ 4279.268–4279.277 [Reserved]

§ 4279.278 Loan approval and obligating funds.

(a) Applications for loan guarantees may be approved as their Phase 2 applications are completed and approved. If an application has been selected for phase 2, but has not been approved because additional information is needed, the Agency will notify, in writing, the Lender of what information is needed, including a timeframe for the Lender to provide the information. If the Lender does not provide the information within the specified timeframe, the Agency will remove the application from further consideration and will so notify the Lender in writing.

(b) Upon approval of a loan guarantee application, the Agency will issue a Conditional Commitment to the Lender containing conditions under which a Loan Note Guarantee will be issued. The Agency will not issue a Conditional Commitment until the Agency has satisfactorily completed a Civil Rights Impact Analysis. The Conditional Commitment becomes null and void unless the conditions are accepted by the Lender and Borrower within 60 days from the date of issuance by USDA. If the conditions are not met or the Loan Note Guarantee is not issued by the Conditional Commitment expiration date, the Agency may extend the Conditional Commitment expiration date when requested by the Lender and only if there has been no Material Adverse Change in the Borrower's or Borrowers' financial condition since issuance of the Conditional Commitment.

(c) The Lender and Borrower may request changes to the Conditional Commitment. The Agency may negotiate with the Lender and the Borrower regarding any proposed changes to the Conditional Commitment. Any changes to the Conditional Commitment must be documented by written amendment to the Conditional Commitment. The changes must be for Good Cause and the Agency may deny, solely at is discretion, changes to the Conditional Commitment even if the change is otherwise in compliance with this subpart.

(d) The Borrower must comply with all Federal requirements then in effect for receiving Federal assistance.

§ 4279.279 Transfer of Lenders.

(a) The Agency may approve the substitution of a new eligible Lender in place of a former Lender who has been issued an outstanding Conditional Commitment when the Loan Note Guarantee has not yet been issued provided that there are no changes in the:

(1) Borrower's ownership or control, loan purposes, or scope of Project;

(2) Loan terms and conditions in the Conditional Commitment; and

(3) Loan Agreement.

(b) The Agency must determine that the new Lender is eligible in accordance with § 4279.208 prior to approving the substitution. The original Lender must provide the Agency with a letter stating the reasons it no longer desires to be a Lender for the Project. The substituted Lender must execute a new part B of Form 4279–1 and Lender's Agreement (unless a valid Lender's Agreement with the Agency already exists), and must complete a new Lender's analysis in accordance with § 4279.215. The new Lender may also be required to provide other updated application items outlined in § 4279.261(k).

§ 4279.280 Changes in Borrowers.

Any changes in Borrower ownership or organization prior to the issuance of the Loan Note Guarantee must meet the eligibility requirements of the Program and be approved by the Agency.

§ 4279.281 Conditions precedent to issuance of Loan Note Guarantee.

The Lender must not close the loan until all conditions of the Conditional Commitment are met or can be met. When loan closing plans are established, the Lender must notify the Agency in writing.

(a) Coincident with, or immediately after loan closing, the Lender must provide the following forms and documents to the Agency:

(1) An executed Lender's Agreement;

(2) Form RD 1980–19, ''Guaranteed Loan Closing Report,'' and appropriate guarantee fee;

(3) Copy of the executed Promissory Note(s);

(4) Copy of the executed Loan Agreement;

(5) Copy of the executed settlement statement and updated source and use statement including all Project funding;

(6) Original, executed Forms RD 4279–14, as appropriate;

(7) Borrower's loan closing balance sheet; and

(8) Any other documents required to comply with applicable law or required by the Conditional Commitment or the Agency.

(b) The Lender must provide their certification to each condition specified in paragraphs (b)(1) through (16) of this section. The Lender may rely on certain written materials (including but not limited to certifications, evaluations, appraisals, financial statements and other reports) to be provided by the Borrower or other qualified third parties (including, among others, one or more independent engineers, appraisers, accountants, attorneys, consultants or other experts.) If the Lender is unable to provide any of the certifications required under this section, the Lender must provide an explanation satisfactory to the Agency as to why the Lender is unable to provide the certification. The Lender can request the guarantee prior to construction, but must still certify to all conditions in paragraphs (b)(1) through (16) of this section.

(1) If required, hazard, flood, liability, worker compensation, and life insurance are in effect.

(2) All truth-in-lending and equal credit opportunity requirements have been met.

(3) The loan has been properly closed, and the required security instruments

have been properly executed, or will be promptly obtained on any property that cannot be immediately secured under State law.

(4) The Borrower has or will have marketable title to the Collateral, subject to the guaranteed loan and to any other exceptions approved in writing by the Agency.

(5) The loan proceeds have been or will be disbursed for purposes and in amounts consistent with the Conditional Commitment and the application submitted to the Agency.

(6) When required, personal or corporate guarantees have been obtained in accordance with § 4279.245.

(7) All requirements of the Conditional Commitment have been met.

(8) Lien priorities are consistent with the requirements of the Conditional Commitment. No claims or liens of laborers, subcontractors, suppliers of machinery and equipment, materialmen, or other parties have been filed against the Collateral and no suits are pending or threatened that would adversely affect the Collateral when the security instruments are filed.

(9) There has been neither any Material Adverse Change in the Borrower's financial condition nor any other Material Adverse Change in the Borrower, for any reason, during the period of time from the Agency's issuance of the Conditional Commitment to issuance of the Loan Note Guarantee regardless of the cause or causes of the change and whether or not the change or causes of the change were within the Lender's or Borrower's control. The Lender must address any assumptions or reservations in this certification and must address all Material Adverse Changes of the Borrower, any parent, Affiliate, or subsidiary of the Borrower, and guarantors.

(10) Neither the Lender nor any of the Lender's officers has an ownership interest in the Borrower or is an officer or director of the Borrower, and neither the Borrower nor its officers, directors, stockholders, or other owners have more than a 5 percent ownership interest in the Lender.

(11) The Loan Agreement includes all Borrower compliance measures identified in the Agency's environmental review process for avoiding or reducing adverse environmental impacts of the Project's construction or operation.

(12) For loans exceeding $150,000, the Lender has certified its compliance with the Anti-Lobby Act (18 U.S.C. 1913). Also, if any funds have been, or will be, paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to guarantee a loan, the Lender must completely disclose such lobbying activities in accordance with 31 U.S.C. 1352.

(13) Where applicable, the Lender must certify that the Borrower has obtained:

(i) A legal opinion relative to the title to rights-of-way and easements. Lenders are responsible for ensuring that Borrowers have obtained valid, continuous, and adequate rights-of-way and easements needed for the construction, operation and maintenance of a facility; and

(ii) A title opinion or title insurance showing ownership of the land and all mortgages or other lien defects, restrictions, or encumbrances, if any. It is the responsibility of the Lender to ensure that the Borrower has obtained and recorded such releases, consents, or subordinations to such property rights from holders of outstanding liens or other instruments as may be necessary for the construction, operation and maintenance of the facility and to provide the required security. For example, when a site is for utility-type facilities (such as a gas distribution system) and the Lender and Borrower are able to obtain only a right-of-way or easement on such site rather than a fee simple title, such a title opinion must be provided.

(14) Each Borrower shall certify to the Lender that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with guaranteed loan funds under this subpart shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with 40 U.S.C. 3141 through 3144, 3146, and 3147. Awards under this subpart are further subject to the relevant regulations contained in Title 29 of the CFR.

(15) The Lender certifies that it has reviewed all contract documents and verified compliance with 40 U.S.C. 3141 through 3144, 3146, and 3147 and Title 29 of the CFR. The Lender will certify that the same process will be completed for all future contracts and any changes to existing contracts.

(16) The Lender certifies that the proposed facility complies with all Federal, State, and local laws and regulatory rules that are in existence and that affect the Project, the Borrower, or Lender activities.

(c) The Agency may, at its discretion, request copies of loan documents for its file.

(d) When the Agency is satisfied that all conditions for the guarantee have been met, the Agency will issue the Loan Note Guarantee(s) and the documents identified in paragraphs (d)(1) and (2) of this section, as appropriate.

(1) *Assignment Guarantee Agreement.* In the event the Lender uses the single Promissory Note option and assigns the guaranteed portion of the loan to a Holder, the Lender, Holder, and the Agency will execute the Assignment Guarantee Agreement.

(2) *Certificate of Incumbency.* If requested by the Lender, the Agency will provide the Lender with a certification on Form 4279–7, ''Certificate of Incumbency and Signature,'' of the signature and title of the Agency official who signs the Loan Note Guarantee, Lender's Agreement, and Assignment Guarantee Agreement.

§ 4279.282 [Reserved]

§ 4279.283 Refusal to execute Loan Note Guarantee.

If the Agency determines that it cannot execute the Loan Note Guarantee, the Agency will inform the Lender, in writing, of the reasons and give the Lender a reasonable period within which to satisfy the objections. If the Lender satisfies the objections within the time allowed, the Agency will issue the Loan Note Guarantee. If the Lender requests additional time in writing and within the period allowed, the Agency may grant the request.

§§ 4279.284–4279.289 [Reserved]

§ 4279.290 Requirements after Project construction.

Once the Project has been constructed, the Lender must meet the requirements specified in paragraphs (a) and (b) of this section.

(a) Provide the Agency annual reports from the Borrower commencing the first full calendar year following the year in which Project construction was completed and continuing for the life of the guaranteed loan. The Borrower's reports will include, but not be limited to, the information specified in paragraphs (a)(1) through (8), as applicable, of this section.

(1) The actual amount of Advanced Biofuels, Biobased Products including Renewable Chemicals, and Byproducts produced.

(2) If applicable, documentation that identified health or sanitation problems have been solved.

(3) A summary of the cost of operating and maintaining the facility.

(4) A description of any maintenance or operational problems associated with the facility.

(5) Certification that the Project is and has been in compliance with all applicable State and Federal environmental laws and regulations.

(6) The number of jobs created.

(7) A description of the status of the Project's feedstock including, but not limited to, the feedstock being used, outstanding feedstock contracts, feedstock changes and interruptions, and quality of the feedstock.

(8) The results of the annual inspections conducted under paragraph (b) of this section.

(b) For the life of the guaranteed loan, conduct annual inspections.

§§ 4279.291–4279.299 [Reserved]

§ 4279.300 OMB control number.

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in the subsequent interim rule have been submitted to the Office of Management and Budget (OMB) under OMB control number 0570–0065 for approval. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

PART 4287—SERVICING

■ 3. The authority citation for part 4287 is revised to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

■ 4. Revise Subpart D to read as follows:

Subpart D—Servicing Biorefinery, Renewable Chemical, and Biobased Manufacturing Assistance Guaranteed Loans

Sec.

Subpart D—Servicing Biorefinery, Renewable Chemical, and Biobased Manufacturing Assistance Guaranteed Loans

§ 4287.301 Introduction.

(a) This subpart supplements 7 CFR part 4279, subpart C by providing additional requirements and instructions for servicing and liquidating all loans guaranteed under 7 CFR part 4279, subpart C.

(b) The Lender is responsible for servicing the entire loan and will remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. The entire loan must continue to be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will neither be paid first nor given any preference or priority over the guaranteed portion of the loan.

(c) All loan servicing actions under this subpart, except for those identified in § 4287.307(a) through (g), are subject to Agency concurrence. Whether specifically stated or not, whenever Agency approval is required, it must be in writing. Whenever Agency approval is required, such servicing action must be for Good Cause.

(d) Copies of all forms, regulations, and Instructions referenced in this subpart may be obtained from any Agency office and from the USDA Rural Development Web site at *http://www.rd.usda.gov/programs-services/biorefinery-assistance-program*. Whenever a form is designated in this subpart, that designation includes predecessor and successor forms, if applicable, as specified by the Agency.

§ 4287.302 Definitions.

The definitions and abbreviations contained in § 4279.202 of this chapter apply to this subpart.

§ 4287.303 Exception authority.

The Administrator may, with the concurrence of the Secretary of Agriculture, make an exception, on a case-by-case basis, to any requirement or provision of this subpart that is not inconsistent with any authorizing statute or applicable law, if the Administrator determines that application of the requirement or provision would adversely affect the Federal government's interest.

§§ 4287.304–4287.305 [Reserved]

§ 4287.306 Appeals.

Borrowers, Lenders, and Holders have appeal or review rights for Agency decisions made under this subpart. Programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appealability by the National Appeals Division (NAD). The Borrower, Lender, and Holder can appeal any Agency decision that directly and adversely impacts them. For an adverse decision that impacts the Borrower, the Lender and Borrower must jointly execute a written request for appeal for an alleged adverse decision made by the Agency. An adverse decision that only impacts the Lender may be appealed by the Lender only. An adverse decision that only impacts the Holder may be appealed by the Holder only. A decision by a Lender adverse to the interest of the Borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be conducted by NAD and will be handled in accordance with 7 CFR part 11.

§ 4287.307 Routine servicing.

The Lender is responsible for servicing the entire loan and for taking all servicing actions that a reasonable Lender would perform in servicing its own portfolio of loans that are not guaranteed. The guarantee is unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, Negligent Loan Servicing or Grossly Negligent Loan Servicing as established in the Loan Note Guarantee, or failure to maintain the required security interest regardless of the time at which the Agency acquires knowledge of the foregoing. The Lender may contract for services and may rely on certain written materials (including but not limited to certifications, evaluations, appraisals, financial statements and other reports) to be provided by the Borrower or other qualified third parties (including, among others, one or more independent engineers, appraisers, accountants, consultants or other experts) but is ultimately responsible for underwriting, loan origination, loan servicing, and compliance with all Agency regulations. The Lender's Agreement is the contractual agreement between the Lender and the Agency that sets forth

some of the Lender's loan servicing responsibilities. This responsibility includes but is not limited to periodic Borrower visits, the collection of payments, obtaining compliance with the covenants and provisions in the Loan Agreement, obtaining and analyzing financial statements, ensuring payment of taxes and insurance premiums, and maintaining liens on Collateral, and keeping an inventory accounting of all Collateral items and reconciling the inventory of all Collateral sold during loan servicing, including liquidation.

(a) *Periodic reports.* Each Lender must submit reports by the end of each Calendar Quarter, unless more frequent ones are needed as determined by the Agency to meet the financial interests of the United States, regarding the condition of its Agency guaranteed loan portfolio (including Borrower status and Loan Classification) and any Material Adverse Change in the general financial condition of the Borrower since the last report was submitted. The Lender must report the outstanding principal and Interest balance and the current Loan Classification on each guaranteed loan using either the USDA Lender Interactive Network Connection (LINC) system or Form RD 1980–41, ''Guaranteed Loan Status Report.''

(b) *Default reports.* Lenders must submit monthly Default reports, including Borrower payment history, for each loan in monetary Default using a form approved by the Agency.

(c) *Annual Renewal Fee.* The Lender must transmit the Annual Renewal Fee to the Agency in accordance with § 4279.231(b) of this chapter calculated based on the December 31 loan status report.

(d) *Agency and Lender conference.* At the Agency's request, the Lender must consult with the Agency to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the Loan Agreement are being enforced.

(e) *Borrower Financial reports.* The Lender must obtain, analyze, and forward to the Agency the Borrower's and any guarantor's financial statements required by the Loan Agreement within 45 days of the end of each Calendar Quarter and audited financial statements within 180 days of the end of the Borrower's fiscal year. The Lender must analyze these financial statements and provide the Agency with a written summary of the Lender's analysis, ratio analysis, and conclusions, which, at a minimum, must include trends, strengths, weaknesses, extraordinary transactions, violations of loan covenants and covenant waivers proposed by the Lender, any routine servicing actions performed, and other indications of the financial condition of the Borrower. Spreadsheets of the financial statements must also be included. Following the Agency's review of the Lender's financial analysis, the Agency will provide a written report of any concerns to the Lender. Any concerns based upon the Agency's review must be addressed by the Lender. If the Lender makes a reasonable attempt to obtain financial statements, but is unable to obtain the Borrower's cooperation, the failure to obtain financial statements will not impair the validity of the Loan Note Guarantee.

(f) *Audits.* Any Public Body, nonprofit corporation or Indian Tribe that receives a guaranteed loan that meets the thresholds established by 2 CFR part 200, subpart F, must provide an audit for the fiscal year (of the borrower) in which the Loan Note Guarantee is issued. If the loan is for development or purchases made in a previous fiscal year through interim financing, an audit will also be provided for the fiscal year in which the development or purchases occurred. Any audit provided by a Public Body, nonprofit corporation, or Indian Tribe in accordance with this paragraph (f) will be considered adequate to meet the audit requirements of the Program for that year.

(g) *Protection of Agency interests.* If the Agency determines that the Lender is not in compliance with its servicing responsibilities, the Agency reserves the right to take any action the Agency determines necessary to protect the Agency's interests with respect to the loan. If the Agency exercises this right, the Lender must cooperate with the Agency to rectify the situation. In determining any loss, the Agency will assess against the Lender any cost to the Agency associated with such action.

(h) *Additional loans.* The Lender must notify the Agency in writing when the Lender makes any additional expenditures or new loans to the Borrower. The Lender may make additional expenditures or new loans to a Borrower with an outstanding loan guaranteed only with prior written Agency approval. The Agency will only approve additional expenditures or new loans where the expenditure or loan will not violate one or more of the loan covenants of the Borrower's Loan Agreement. Any additional expenditure or loan made by the Lender must be junior in priority to the BAP loan guaranteed under 7 CFR part 4279 except for Working Capital loans for which the Agency may consider a subordinate lien provided it is consistent with the conditional provisions specified in § 4279.235(a) of this chapter and in § 4287.323.

§§ 4287.308–4287.311 [Reserved]

§ 4287.312 Interest rate changes.

(a) *Reductions.* The Borrower, Lender, and Holder (if any) may collectively initiate a permanent or temporary reduction in the Interest rate of the guaranteed loan at any time during the life of the loan upon written agreement among these parties. The Lender must obtain prior Agency concurrence and must provide a copy of the modification agreement to the Agency. If any of the guaranteed portion has been purchased by the Agency, the Agency (as a Holder) will affirm or reject Interest rate change proposals in writing.

(1) Fixed rates can be changed to variable rates to reduce the Borrower's Interest rate only when the variable rate has a ceiling which is less than or equal to the original fixed rate.

(2) The Interest rates, after adjustments, must comply with the requirements for Interest rates on new loans as established by § 4279.233 of this chapter.

(3) The Lender is responsible for the legal documentation of Interest rate changes by an endorsement or any other legally effective amendment to the Promissory Note; however, no new Promissory Notes may be issued. The Lender must provide copies of all legal documents to the Agency.

(b) *Increases.* Increases in fixed Interest rates and increases in variable rate basis are not permitted (except the normal fluctuations in approved variable Interest rates), unless a temporary Interest rate reduction occurred. Any increase in rates must be for Good Cause.

§ 4287.313 Release of Collateral.

The Lender must inspect the Collateral as often as necessary to properly service the loan. The Agency must give prior written approval for the release of Collateral, except as specified in paragraph (a) of this section or where the release of Collateral is made of Collateral under the abundance of caution provision of the applicable security agreement, subject to the provisions of paragraph (c) of this section. Appraisals on the Collateral being released are required on all transactions exceeding $250,000 and will be at the expense of the Borrower. The appraisal must meet the requirements of § 4279.244 of this chapter. The sale or release of Collateral must be based on an Arm's Length Transaction, unless otherwise approved by the Agency in writing.

(a) Within the parameters of paragraph (c) of this section, Lenders may, over the life of the guaranteed loan, release Collateral (other than personal and corporate guarantees) with a cumulative value of up to 20 percent of the original loan amount without Agency concurrence if the proceeds generated are used to reduce the guaranteed loan or to buy replacement Collateral. Working assets, such as accounts receivable, inventory, and work-in-progress that are routinely depleted or sold and the proceeds used for the normal course of business operations, may be used in and released for routine business purposes without prior concurrence of the Agency as long as the loan has not been accelerated.

(b) If a release of Collateral does not meet the requirements of paragraph (a) of this section, the Lender must complete a written evaluation to justify the release and must obtain written Agency concurrence in advance of the release.

(c) The Lender must support all releases of Collateral with a value exceeding $250,000 with a current appraisal on the Collateral being released. The appraisal must meet the requirements of § 4279.244 of this chapter. The cost of this appraisal will not be paid for by the Agency. The Agency may, at its discretion, require an appraisal of the remaining Collateral in cases where it has been determined that the Agency may be adversely affected by the release of Collateral. The sale or release of the Collateral must be at Fair Market Value based on an Arm's Length Transaction, and there must be adequate consideration for the release of Collateral. Such consideration may include, but is not limited to:

(1) Application of the net proceeds from the sale of Collateral to the Borrower's debts in order of their lien priority in the sold Collateral;

(2) Use of the net proceeds from the sale of Collateral to purchase other Collateral of equal or greater value which the Lender will obtain as security for the benefit of the guaranteed loan with a lien position equal or superior to the position previously held;

(3) Application of the net proceeds from the sale of Collateral to the Borrower's business operation in such a manner that a significant improvement to the Borrower's debt service ability is clearly demonstrated. The Lender's written request must detail how the Borrower's debt service ability will be improved; and

(4) Assurance that the release of Collateral is essential for the success of the business, thereby furthering the goals of the Program. Such assurance must be supported by written documentation from the Lender acceptable to the Agency.

(d) Any release of Collateral must not adversely affect the Project's operation or financial condition.

§§ 4287.314–4287.322 [Reserved]

§ 4287.323 Subordination of lien position.

A Subordination of the Lender's lien position must be requested in writing by the Lender and concurred with in writing by the Agency in advance of the Subordination. The Lender's Subordination proposal must include a financial analysis of the servicing action and be fully supported by current financial statements of the Borrower and guarantors that are less than 90 days old.

(a) The Subordination of the Lender's lien position must enhance the Borrower's business and be in the best financial interest of the Agency.

(b) The lien to which the guaranteed loan is subordinated is for a fixed dollar limit and for a fixed term after which the guaranteed loan lien priority will be restored. Notwithstanding, a Subordination of lien position on inventory and accounts receivable may be made to a line of credit.

(c) Collateral must remain sufficient to provide for adequate Collateral coverage. The Agency may require a current independent appraisal in accordance with § 4279.244 of this chapter.

(d) Lien priorities must remain for the portion of the loan Collateral that was not subordinated.

(e) Subordination of the Lender's lien position must be for Good Cause.

§ 4287.324 Alterations of loan instruments.

The Lender must neither alter nor approve any alterations or modifications of any loan instrument without the prior written approval of the Agency.

§§ 4287.325–4287.333 [Reserved]

§ 4287.334 Transfer and Assumption.

The Lender may request a Transfer and Assumption of a guaranteed loan when the total indebtedness, or less than the total indebtedness, is assumed by another Borrower. If the assumption is for less than the total indebtedness of the guaranteed loan, the Transfer and Assumption must be an Arm's Length Transaction and the transfer must be of all loan Collateral. In the event of Default of the guaranteed loan, a Transfer and Assumption of the Borrower's operation and guaranteed loan can be accomplished before or after the loan goes into liquidation. However, if the Collateral has been purchased through foreclosure or the Borrower has conveyed title to the Lender, no Transfer and Assumption is permitted.

(a) *Documentation of request.* All Transfers and Assumptions cannot be conducted unless the Agency gives prior written approval. An individual credit report must be provided for transferee and its partners, officers, directors, and stockholders with 20 percent or more interest in the business, along with such other documentation as the Agency may request to determine eligibility and credit worthiness. The new Borrower must sign Form RD 4279–1.

(b) *Terms.* Loan terms may be changed for Transfer and Assumptions to eligible Borrowers continuing the Project for eligible purposes with the concurrence of the Agency, all Holders, and the transferor (including guarantors). If the transferor has been or will be released from liability, the transferor's concurrence is not required. Any new loan terms must be within the terms authorized by § 4279.234 of this chapter and must be for Good Cause.

(c) *Release of liability.* The transferor, including any guarantor, may be released from liability only with prior Agency written concurrence when the Transfer and Assumption is an Arm's Length Transaction and:

(1) The assumption is for the full amount of the loan and all of the loan Collateral is transferred to the transferee; or

(2) The assumption is for less than the full amount of the loan, all of the loan Collateral is transferred to the transferee, and the Lender demonstrates to the Agency that the transferor and guarantors have no reasonable debt-paying ability considering their assets and income in the foreseeable future.

(d) *Proceeds.* The Lender must credit any proceeds received from the sale of Collateral before a Transfer and Assumption to the transferor's guaranteed loan debt in order of lien priority before the Transfer and Assumption are closed.

(e) *Additional loans.* Guaranteed loans to provide additional funds in connection with a Transfer and Assumption must be considered a new loan application, which requires submission of a complete Agency application in accordance with §§ 4279.260 and 4279.261 of this chapter.

(f) *Credit quality.* The Lender must make a complete credit analysis in accordance with § 4279.215 of this chapter.

(g) *Appraisals.* If the proposed Transfer and Assumption is for the full amount of the Agency guaranteed loan and all loan Collateral, the Agency will

not require an appraisal. If the proposed Transfer and Assumption is for less than the full amount of the Agency guaranteed loan, the Agency will require an appraisal on all of the Collateral being transferred, and the amount of the assumption must not be less than this appraised value. The Lender is responsible for obtaining this appraisal, which must conform to the requirements of § 4279.244 of this chapter. The Agency will not pay the appraisal fee or any other costs associated with this transfer.

(h) *Documents.* Prior to Agency approval, the Lender must provide the Agency a written legal opinion that the transaction can be properly and legally transferred and assurance that the conveyance instruments will be appropriately filed, registered, and recorded.

(1) The Lender must not issue any new Promissory Notes. The assumption must be completed in accordance with applicable law and must contain the Agency case number of the transferor and transferee. The Lender will provide the Agency with a copy of the Transfer and Assumption agreement. The Lender must ensure that all Transfers and Assumptions are noted on all original Loan Note Guarantees.

(2) A new Loan Agreement, consistent in principle with the original Loan Agreement, must be executed to establish the terms and conditions of the loan being assumed. An assumption agreement can be used to establish the loan covenants.

(3) Upon execution of the Transfer and Assumption, the Lender must provide the Agency with a written legal opinion that the Transfer and Assumption is completed, valid, enforceable, and certification that the Transfer and Assumption is consistent with the conditions outlined in the Agency's conditions of approval for the transfer and complies with all Agency regulations.

(i) *Loss resulting from transfer.* (1) Any resulting loss must be processed in accordance with § 4287.358.

(2) If a Holder owns any of the guaranteed portion, such portion must be repurchased by the Lender or the Agency in accordance with § 4279.225 of this chapter.

(j) *Related party.* If the transferor and transferee are Affiliates or related parties, any Transfer and Assumption must be to an eligible Borrower to continue the Project for eligible purposes, must transfer all of the loan Collateral, and must be for the full amount of the guaranteed loan indebtedness.

(k) *Cash down payment.* The Lender may allow the transferee to make cash down payments directly to the transferor provided:

(1) The Transfer and Assumption is made for the total indebtedness to an eligible Borrower to continue the Project for eligible purposes;

(2) The Lender recommends that the cash be released, and the Agency concurs prior to the transaction being completed. The Lender may require that an amount be retained for a defined period of time as a reserve against future Defaults. Interest on such account may be paid periodically to the transferor or transferee as agreed;

(3) The Lender determines that the transferee has the repayment ability to meet the obligations of the assumed guaranteed loan as well as any other indebtedness; and

(4) Any payments by the transferee to the transferor will not suspend the transferee's obligations to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(l) *Transfer/Annual Renewal Fees.* (1) The Agency will charge a nonrefundable transfer fee at the time of transfer, which may be passed on to the Borrower by the Lender. The transfer fee rate will be equal to the rate of the guarantee fee authorized in § 4279.231(a) of this chapter for the fiscal year in which the transfer occurs. The amount of the transfer fee is determined by multiplying the principal balance at the time of the transfer by the transfer fee rate by the percentage of guarantee on the original loan.

(2) The Lender must pay any Annual Renewal Fee in accordance with § 4279.231(b) of this chapter.

(m) *Change in control of Borrower.* Transfer and Assumption shall be deemed to occur in the event of a change in the control of the Borrower.

(n) *Personal and corporate guarantees.* Guarantees from owners are required in accordance with § 4279.245 of this chapter.

§ 4287.335 Substitution of Lender.

The Lender is prohibited from selling or transferring the entire loan without the prior written approval of the Agency. Because the Loan Note Guarantee is associated with a specific Promissory Note and cannot be transferred to a new Promissory Note, the Lender must transfer the original Promissory Note and loan security documents to the new Lender, who must agree to its current loan terms, including the Interest rate, secondary market Holder (if any), Collateral, Loan Agreement terms, and guarantors. The new Lender must also obtain the original Loan Note Guarantee, original personal and corporate guarantee(s), and the loan payment history from the transferor Lender. If the new Lender wishes to modify the loan terms after acquisition, the new Lender must submit a request to the Agency.

(a) The Agency may approve the substitution of a new Lender if:

(1) The proposed substitute Lender:

(i) Is an eligible Lender in accordance with § 4279.208 of this chapter;

(ii) Is able to service the loan in accordance with the original loan documents; and

(iii) Agrees to acquire title to the unguaranteed portion of the loan held by the original Lender and assumes all original loan requirements, including liabilities and servicing responsibilities; and

(2) The substitution of the Lender is requested in writing by the Borrower, the proposed substitute Lender, and the original Lender if still in existence.

(b) The Agency will not pay any loss or share in any costs (*e.g.,* appraisal fees and environmental assessments) with a new Lender unless a relationship is established through a substitution of Lender in accordance with paragraph (a) of this section. This includes situations where a Lender is acquired by another Lender and situations where the Lender has failed and been taken over by a regulatory agency such as the Federal Deposit Insurance Corporation (FDIC) and the loan is subsequently sold to another Lender.

(c) In cases when there is a substitution of Lender or when a Lender has been merged with or acquired by another Lender, the Agency and the new Lender must execute a new Lender's Agreement, unless a valid Lender's Agreement already exists with the new Lender.

§ 4287.336 Lender failure.

(a) The acquiring Lender must comply with 7 CFR parts 4279, subpart C and 4287, subpart D and must take such action that a reasonable Lender would take if it did not have a Loan Note Guarantee to protect the Lender and Agency's mutual interest. The Lender cannot arbitrarily change the Lender's Agreement and related documents on the guaranteed loan, and the Agency will make the successor to the failed institution aware of the statutory and regulatory requirements.

(b) In the event of a Default and the guaranteed loan is liquidated by the FDIC rather than being sold to another Lender, the Agency will pay losses and share in costs as if the FDIC were an approved new Lender.

§§ 4287.337–4287.344 [Reserved]

§ 4287.345 Default by Borrower.

The Lender's primary responsibilities in Default are to act reasonably and expeditiously, to work with the Borrower to bring the account current or cure the Default through restructuring if a realistic plan can be developed, or to accelerate the account and conduct a liquidation in a manner that will minimize any potential loss. The Lender may initiate liquidation in accordance with § 4287.357.

(a) The Lender must notify the Agency in writing when a Borrower is more than 30 days past due on a payment and the Delinquency cannot be cured within 30 days or when a Borrower is otherwise in Default of covenants in the Loan Agreement by submitting Form RD 1980–44, ''Guaranteed Loan Borrower Default Status,'' or processing the Default Status report in LINC. The Lender must provide this notification to the Agency within 15 calendar days of when a Borrower is 30 days past due on a payment or is otherwise in Default of the Loan Agreement. The Lender must update the loan's status each month using either Form RD 1980–44 or the LINC Default Status report until such time as the loan is no longer in Default. If a monetary Default exceeds 60 days, the Lender must meet with the Agency and, if practical, the Borrower to discuss the situation.

(b) In considering options, the prospects for providing a permanent cure without adversely affecting the risk to the Agency and the Lender are the paramount objective.

(1) Curative actions (subject to the rights of any Holder) include, but are not limited to:

(i) Deferment of principal or Interest payments;

(ii) An additional unguaranteed temporary loan by the Lender to bring the account current;

(iii) Reamortization of or rescheduling the payments on the loan (subject to the rights of any Holder) excluding capitalization of accrued Interest;

(iv) Transfer and Assumption of the loan in accordance with § 4287.334;

(v) Reorganization;

(vi) Liquidation; and

(vii) Changes in Interest rates with the Agency's, the Lender's, and Holder's approval. Any Interest rate changes must be adjusted proportionately between the guaranteed and unguaranteed portion of the loan.

(2) The term of any deferment, rescheduling, reamortization, or moratorium will be limited to the lesser of the remaining life of the Collateral or remaining limits as set forth in § 4279.234 of this chapter (excluding paragraph (d)). Balloon payments are permitted as a loan servicing option as long as there is a reasonable prospect for success and the remaining life of the Collateral supports the action.

(3) In the event of a loss or a repurchase, the Lender cannot claim Default or penalty Interest, late payment fees, or Interest on Interest.

(c) Debt write-downs by the lender are prohibited when the Lender will continue with the Project loan, except as directed or ordered by a final court order.

(d) In the event of a loss, the guarantee will not cover Interest to the Lender accruing after the Interest Termination Date.

(e) For repurchases of guaranteed loans, refer to § 4279.225 of this chapter.

§§ 4287.346–4287.355 [Reserved]

§ 4287.356 Protective Advances.

Protective Advances are advances made by the Lender for the purpose of preserving and protecting the Collateral where the Borrower has failed to, will not, or cannot meet its obligations. Lenders must exercise sound judgment in determining that the Protective Advance preserves Collateral and recovery is actually enhanced by making the advance. Lenders cannot make Protective Advances in lieu of additional loans. A Protective Advance claim will be paid only at the time of the final payment as indicated in the Guaranteed Loan Report of Loss.

(a) The maximum loss to be paid by the Agency will never exceed the original loan amount plus accrued Interest times the percentage of guarantee regardless of any Protective Advances made.

(b) In the event of a final loss, Protective Advances will accrue Interest at the Promissory Note rate and will be guaranteed at the same percentage of loss as provided in the Loan Note Guarantee. The guarantee will not cover Interest on the Protective Advance accruing after the Interest Termination Date.

(c) Protective Advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instruments. Agency written authorization is required when the cumulative total of Protective Advances exceeds $200,000 or 10 percent of the outstanding balance of principal, whichever is less.

§ 4287.357 Liquidation.

In the event of one or more incidents of Default or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, the Lender, with Agency consent, must provide for liquidation.

(a) *Decision to liquidate.* A decision to liquidate or proceed otherwise must be made when the Lender determines that the Default cannot be cured through actions such as those contained in § 4287.345, or it has been determined that it is in the best interest of the Agency and the Lender to liquidate. The decision to liquidate or proceed otherwise with the Borrower must be made as soon as possible when one or more of the following exist:

(1) A loan is 90 days behind on any scheduled payment and the Lender and the Borrower have not been able to cure the Delinquency through actions such as those contained in § 4287.345.

(2) It is determined that delaying liquidation will jeopardize full recovery on the loan.

(3) The Borrower or Lender is uncooperative in resolving the problem or the Agency or Lender has reason to believe the Borrower is not acting in good faith, and immediate liquidation would minimize loss to the Agency.

(b) *Repurchase of loan.* When the decision to liquidate is made, if any portion of the loan has been sold or assigned under § 4279.223 of this chapter and not already repurchased, provisions will be made for repurchase in accordance with § 4279.225 of this chapter.

(c) *Lender's liquidation plan.* The Lender is responsible for initiating actions immediately and as necessary to ensure a prompt, orderly liquidation that will provide maximum recovery. Within 30 days after a decision to liquidate, the Lender must submit a written, proposed plan of liquidation to the Agency for approval. The liquidation plan must be detailed and include at least the following:

(1) Such proof as the Agency requires to establish the Lender's ownership of the guaranteed loan Promissory Note and related security instruments and a copy of the payment ledger, if available, that reflects the current loan balance, accrued Interest to date, and the method of computing the Interest;

(2) A full and complete list of all Collateral, including any personal and corporate guarantees;

(3) The recommended liquidation methods for making the maximum collection possible on the indebtedness and the justification for such methods, including recommended action for acquiring and disposing of all Collateral and collecting from guarantors;

(4) Necessary steps for preservation of the Collateral;

(5) Copies of the Borrower's most recently available financial statements;

(6) Copies of each guarantor's most recently available financial statements;

(7) An itemized list of estimated Liquidation Expenses expected to be incurred along with justification for each expense;

(8) A schedule to periodically report to the Agency on the progress of liquidation;

(9) Estimated Protective Advance amounts with justification;

(10) Proposed protective bid amounts on Collateral to be sold at auction and a breakdown to show how the amounts were determined. A protective bid may be made by the Lender, with prior Agency written approval, at a foreclosure sale to protect the Lender's and the Agency's interest. The protective bid will be based on the liquidation value and estimated net recovery considering prior liens and outstanding taxes, expenses of foreclosure, and estimated expenses for holding and reselling the property. These expenses include, but are not limited to, expenses for resale, Interest accrual, length of time necessary for resale, maintenance, guard service, weatherization, and prior liens;

(11) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt;

(12) Legal opinions, if needed by the Lender's legal counsel; and

(13) An estimate of Fair Market Value and potential liquidation value of the Collateral. If the value of the Collateral is $250,000 or more, the Lender must obtain an independent appraisal report meeting the requirements of § 4279.244 of this chapter on the Collateral securing the loan, which reflects the Fair Market Value and potential liquidation value. The liquidation appraisal must evaluate the impact on Market Value of any release of hazardous substances, petroleum products, or other environmental hazards. The independent appraiser's fee, including the cost of the environmental site assessment, will be shared equally by the Agency and the Lender. In order to ensure prompt action, the liquidation plan can be submitted with an estimate of Collateral value, and the liquidation plan may be approved by the Agency subject to the results of the final liquidation appraisal.

(d) *Approval of liquidation plan.* The Lender cannot implement its liquidation plan before obtaining written approval from the Agency. The Lender and Agency must attempt to resolve any Agency concerns.

(1) If the liquidation plan is approved by the Agency, the Lender must proceed expeditiously with liquidation and must take all legal action necessary to liquidate the loan in accordance with the approved liquidation plan. The Lender must update or modify the liquidation plan when conditions warrant, including a change in value based on a liquidation appraisal.

(2) Should the Agency and the Lender not agree on the liquidation plan, negotiations will take place between the Agency and the Lender to resolve the disagreement. The Lender must take such actions that a reasonable Lender would take without a guarantee and keep the Agency informed in writing. When the liquidation plan is approved by the Agency, the Lender will proceed expeditiously with liquidation.

(e) *Acceleration.* The Lender will proceed to accelerate the indebtedness as expeditiously as possible when acceleration is necessary, including giving any notices and taking any other legal actions required. The guaranteed loan will be considered in liquidation once the loan has been accelerated and a demand for payment has been made upon the Borrower. The Lender must obtain from the Agency concurrence prior to the acceleration of the loan if the sole basis for acceleration is a nonmonetary Default. In the case of monetary Default, prior approval by the Agency of the Lender's acceleration is not required, although Agency concurrence must still be given not later than at the time the liquidation plan is approved. The Lender will provide a copy of the acceleration notice or other acceleration document to the Agency.

(f) *Filing an estimated loss claim.* When the Lender owns any of the guaranteed portion of the loan, the Lender must file an estimated loss claim once a decision has been made to liquidate if the liquidation is expected to exceed 90 days. When calculating the estimated loss payment, the value of the Collateral must be based on its estimated net liquidation value. For the purpose of reporting and loss claim computation, the guarantee will not cover Interest to the Lender accruing after the Interest Termination Date. The Agency will promptly process the loss claim in accordance with applicable Agency regulations as set forth in § 4287.358.

(g) *Accounting and reports.* The Lender must account for funds during the period of liquidation and must, in accordance with the Agency-approved liquidation plan, provide the Agency with reports on the progress of liquidation including disposition of Collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

(h) *Transmitting payments and proceeds to the Agency.* When the Agency is the Holder of a portion of the guaranteed loan, the Lender must transmit to the Agency within 14 calendar days its Pro Rata share of any payments received from the Borrower, liquidation, or other proceeds using Form RD 1980–43, ''Lender's Guaranteed Loan Payment to Rural Development.''

(i) *Abandonment of Collateral.* When the Lender adequately documents that the cost of liquidation would exceed the potential recovery value of certain Collateral and receives Agency concurrence, the Lender may abandon that Collateral. When the Lender makes a recommendation for abandonment of Collateral, it must comply with 7 CFR part 1940, subpart G.

(j) *Disposition of personal or corporate guarantees.* The Lender must take action to maximize recovery from all personal and corporate guarantees, including seeking Deficiency Judgments when there is a reasonable chance of future collection.

(k) *Compromise settlement.* Compromise settlements must be approved by the Lender and the Agency. Complete current financial information on all parties obligated for the loan must be provided. At a minimum, the compromise settlement must be equivalent to the value and timeliness of that which would be received from attempting to collect on the guarantee. The guarantor cannot be released from liability until the full amount of the compromise settlement has been received. In weighing whether the compromise settlement should be accepted, among other things, the Agency will weigh whether the compromise is more financially advantageous than collecting on the guarantee.

(l) *Litigation.* In all litigation proceedings involving the Borrower, the Lender is responsible for protecting the rights of the Lender with respect to the loan and keeping the Agency adequately and regularly informed, in writing, of all aspects of the proceedings. If the Agency determines that the Lender is not adequately protecting the rights of the Lender or the Agency with respect to the loan, the Agency reserves the right to take any legal action the Agency determines necessary to protect the rights of the Lender, on behalf of the Lender, or the Agency with respect to the loan. If the Agency exercises this right, the Lender must cooperate with the Agency. Any cost to the Agency

associated with such action will be assessed against the Lender.

§ 4287.358 Determination of loss and payment.

Unless the Agency anticipates a Future Recovery, the Agency will make a final settlement with the Lender after the Collateral is liquidated and settlement and compromise of all parties has been completed. The Agency has the right to recover losses paid under the guarantee from any party that may be liable.

(a) *Report of loss form.* Form RD 449–30, ''Guaranteed Loan Report of Loss,'' will be used for reporting and calculating all estimated and final loss determinations.

(b) *Estimated loss.* In accordance with the requirements of § 4287.357(f), the Lender must prepare an estimated loss claim and submit it to the Agency.

(1) Interest accrual eligible for payment under the guarantee on the Defaulted loan will be discontinued when the estimated loss is paid.

(2) A Protective Advance claim will be paid only at the time of the final payment as indicated in the Guaranteed Loan Report of Loss.

(3) The estimated loss payment is a payment to the Lender and is not to be applied as a payment on the loan for purposes of reducing the unpaid balance owed by the Borrower or for status reporting (semi-annual status/Default status reports).

(c) *Final loss.* Except for certain unsecured personal or corporate guarantees as provided for in this section, the Lender must prepare a final Guaranteed Loan Report of Loss and submit it to the Agency within 30 days after liquidation of all Collateral is completed. Interest will not be paid beyond the Interest Termination Date. Before approval by the Agency of any final loss report, the Lender must account for all funds during the period of liquidation, disposition of the Collateral, all costs incurred, and any other information necessary for the successful completion of liquidation. Upon receipt of the final accounting and Guaranteed Loan Report of Loss, the Agency may audit all applicable documentation to determine the final loss. The Lender must make its records available and otherwise assist the Agency in making any investigation. The documentation accompanying the Guaranteed Loan Report of Loss must support the amounts reported as losses on the Guaranteed Loan Report of Loss.

(1) The Lender must make a determination regarding the collectability of unsecured personal and corporate guarantees. If reasonably possible, the Lender must promptly collect or otherwise dispose of such guarantees in accordance with § 4287.357(j) prior to completion of the final loss report. However, in the event that collection from the guarantors appears unlikely or will require a prolonged period of time, the Lender must file the Guaranteed Loan Report of Loss when all other Collateral has been liquidated. Unsecured personal or corporate guarantees outstanding at the time of the submission of the final loss claim will be treated as a Future Recovery with the net proceeds to be shared on a Pro Rata basis by the Lender and the Agency. The Agency may consider a compromise settlement of Federal Debt after it has processed a final Guaranteed Loan Report of Loss and issued a 60 day due process letter. Any funds collected on Federal Debt will not be shared with the Lender.

(2) The Lender must document that all of the Collateral has been accounted for and properly liquidated and liquidation proceeds have been accounted for and applied correctly to the loan.

(3) The Lender must provide receipts and a breakdown of any Protective Advance amount as to the payee, purpose of the expenditure, date paid, and evidence that the amount expended was proper.

(4) The Lender must provide receipts and a breakdown of Liquidation Expenses as to the payee, purpose of the expenditure, date paid, and evidence that the amount expended was proper. Liquidation Expenses are recoverable only from liquidation proceeds. The Agency may approve attorney/legal fees as Liquidation Expenses provided that the fees are reasonable, require the assistance of attorneys, and cover legal issues pertaining to the liquidation that could not be properly handled by the Lender and its employees.

(5) The Lender must support accrued Interest by documenting how the amount was accrued. If the Interest rate was a variable rate, the Lender must include documentation of changes in both the selected base rate and the loan rate.

(6) The Agency will pay loss payments within 60 days after it has reviewed the complete final loss report and accounting of the Collateral.

(7) If a Lender receives a final loss payment and the Agency determines there is Future Recovery, the Lender must submit to the Agency an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.

(d) *Loss limit.* The amount payable by the Agency to the Lender cannot exceed the limits set forth in the Loan Note Guarantee.

(e) *Liquidation Expenses.* The Agency will deduct Liquidation Expenses from the liquidation proceeds of the Collateral. The Lender cannot claim any Liquidation Expenses in excess of liquidation proceeds. Any changes to the Liquidation Expenses that exceed 10 percent of the amount proposed in the liquidation plan must be approved by the Agency. Reasonable attorney/legal expenses will be shared by the Lender and Agency equally, including those instances where the Lender has incurred such expenses from a trustee conducting the liquidation of assets. The Lender cannot claim the guarantee fee or the Annual Renewal Fee as authorized Liquidation Expenses, and no In-House Expenses of the Lender will be allowed. In-House Expenses include, but are not limited to, employee's salaries, staff lawyers, travel, and overhead.

(f) *Rent.* The Lender must apply any net rental or other income that it receives from the Collateral to the guaranteed loan debt.

(g) *Payment.* Once the Agency approves the Guaranteed Loan Report of Loss and supporting documents submitted by the Lender:

(1) If the loss is greater than any estimated loss payment, the Agency will pay the additional amount owed by the Agency to the Lender.

(2) If the loss is less than the estimated loss payment, the Lender must reimburse the Agency for the overpayment plus Interest at the Promissory Note rate from the date of payment.

§§ 4287.359–4287.368 [Reserved]

§ 4287.369 Future recovery.

Unless notified otherwise by the Agency, after the final loss claim has been paid, the Lender must use reasonable efforts to attempt collection from any party still liable for Future Recovery. Any net proceeds from Future Recovery must be split Pro Rata between the Lender and the Agency based on the original amount of the loan guarantee. Any collection of Federal Debt made by the Federal Government from any liable party to the guaranteed loan will not be split with the Lender.

§ 4287.370 Bankruptcy.

(a) *Lender's responsibilities.* It is the Lender's responsibility to protect the guaranteed loan and all of the Collateral securing it in bankruptcy and any related appellate proceedings. These responsibilities include, but are not limited to the following:

(1) Monitoring confirmed bankruptcy plans to determine Borrower compliance, and, if the Borrower fails to comply, pursue appropriate relief;

(2) Filing all the necessary papers and pleadings concerning the case, including where appropriate a proof of claim;

(3) Attending and, where necessary, participating in meetings of the creditors and all court proceedings;

(4) Requesting modifications of any proposed bankruptcy plan whenever it appears that the Lender could obtain additional recoveries via plan modification;

(5) Keeping the Agency adequately and regularly informed in writing of all aspects of the proceedings;

(6) Submitting a Default status report within 15 days after the date when the Borrower Defaults and every 30 days thereafter until the Default is resolved or a final loss claim is paid by the Agency. The Default status report will be used to inform the Agency of the bankruptcy filing, the plan confirmation date, when the plan is complete, and when the Borrower is not in compliance with the plan; and

(7) With written Agency consent, the Lender and Agency will equally share the cost of any independent appraisal fee to protect the guaranteed loan in any bankruptcy proceedings.

(b) *Reports of loss during bankruptcy.* In bankruptcy proceedings, payment of loss claims will be made as provided in this section.

(1) *Estimated loss payments.* (i) If a Borrower has filed for bankruptcy and all or a portion of the debt has been discharged, the Lender must request an estimated loss payment of the guaranteed portion of the accrued Interest and principal discharged by the court. Only one estimated loss payment is allowed during the bankruptcy and any related appellate proceedings. All subsequent claims of the Lender during bankruptcy and any related appellate proceedings will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by the Agency, at its option, in accordance with any court-approved changes in the bankruptcy plan. Once the bankruptcy plan has been completed, the Lender is responsible for submitting the documentation necessary for the Agency to review and adjust the estimated loss claim to reflect any actual discharge of principal and Interest and to reimburse the Lender for any court-ordered Interest rate reduction under the terms of the bankruptcy plan.

(ii) The Lender must use the Guaranteed Loan Report of Loss to request an estimated loss payment and to revise any estimated loss payments during the course of the bankruptcy plan. The estimated loss claim, as well as any revisions to this claim, must be accompanied by documentation to support the claim.

(iii) Upon completion of a bankruptcy plan, the Lender must:

(A) Complete a Form RD 1980–44 and forward this form to the Agency; and

(B) Provide the Agency with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained.

(*1*) If the actual loss sustained as a result of the bankruptcy is less than the estimated loss, the Lender must reimburse the Agency for the overpayment plus Interest at the Promissory Note rate from the date of payment of the estimated loss.

(*2*) If the actual loss is greater than the estimated loss payment, the Lender must submit a revised estimated loss claim in order to obtain payment of the additional amount owed by the Agency to the Lender.

(2) *Bankruptcy loss payments.* (i) The Lender must request a bankruptcy loss payment of the guaranteed portion of the accrued Interest and principal discharged by the court for all bankruptcies when all or a portion of the debt has been discharged. Unless a final court decree approves a subsequent change to the bankruptcy plan that is adverse to the Lender, only one bankruptcy loss payment is allowed during the bankruptcy. Once a final court decree has discharged all or part of the guaranteed loan and any appeal period has run, the Lender must submit the documentation necessary for the Agency to review and adjust the bankruptcy loss claim to reflect any actual discharge of principal and Interest.

(ii) The Lender must use the Guaranteed Loan Report of Loss to request a bankruptcy loss payment and to revise any bankruptcy loss payments during the course of the bankruptcy. The Lender must include with the bankruptcy loss claim documentation to support the claim, as well as any revisions to this claim.

(iii) Upon completion of a bankruptcy plan, restructuring, or liquidation, the Lender must either complete a Form RD 1980–44 and forward this form to the Agency or enter the data directly into LINC.

(iv) If an estimated loss claim is paid during a bankruptcy and the Borrower repays in full the remaining balance without an additional loss sustained by the Lender, a final Guaranteed Loan Report of Loss is not necessary.

(3) *Interest rate losses as a result of bankruptcy reorganization.* Interest rate losses as a result of bankruptcy reorganization will be paid as follows:

(i) Interest losses sustained during the period of the bankruptcy plan will be processed in accordance with paragraph (b)(1) of this section;

(ii) Interest losses sustained after the bankruptcy plan is confirmed will be processed annually when the Lender sustains a loss as a result of a permanent Interest rate reduction that extends beyond the period of the bankruptcy plan; and

(iii) If a bankruptcy loss claim is paid during the operation of the bankruptcy plan and the Borrower repays in full the remaining balance without an additional loss sustained by the Lender, a final Guaranteed Loan Report of Loss is not necessary.

(4) *Final bankruptcy loss payments.* The Agency will process final bankruptcy loss payments when the loan is fully liquidated.

(5) *Application of loss claim payments.* The Lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event a court attempts to direct the payments to be applied in a different manner, the Lender must immediately notify the Agency in writing.

(6) *Protective Advances.* If approved Protective Advances, as authorized by § 4287.356, were incurred in connection with the initiation of liquidation action and were required to provide repairs, insurance, etc., to protect the Collateral as result of delays in the case of failure of the Borrower to maintain the security prior to the Borrower having filed bankruptcy, the Protective Advances together with accrued Interest are payable under the guarantee in the final loss claim.

(c) *Expenses during bankruptcy proceedings.* (1) Under no circumstances will the guarantee cover Liquidation Expenses in excess of liquidation proceeds.

(2) Expenses, such as reasonable attorney/legal fees and the cost of appraisals incurred by the Lender as a direct result of the Borrower's bankruptcy filing, will be shared equally by the Lender and the Agency.

(3) Reasonable and customary Liquidation Expenses must be deducted from Collateral sale proceeds. Liquidation Expenses are covered under the guarantee, provided they are reasonable, customary, and provide a demonstrated economic benefit to the Lender and the Agency. Lender's In-

House Expenses, which are those expenses that would normally be incurred for administration of the loan, including in-house lawyers, are not covered by the guarantee.

(4) When a bankruptcy proceeding results in a liquidation of the Borrower by a bankruptcy trustee appointed under 11 U.S.C. 701, 702, 703 or 1104, expenses will be handled as directed by the court, and the Lender cannot claim Liquidation Expenses for the sale of the assets.

(5) If the property is abandoned by the bankruptcy trustee, the Lender will conduct the liquidation in accordance with § 4287.357.

(6) Proceeds received from partial sale of Collateral during bankruptcy may be used by the Lender to pay reasonable costs, such as freight, labor and sales commissions, associated with the partial sale. Reasonable use of proceeds for this purpose must be documented with the final loss claim.

§§ 4287.371–4287.379 [Reserved]

§ 4287.380 Termination of guarantee.

The Loan Note Guarantee will terminate under any of the following conditions:

(a) Upon full payment of the guaranteed loan;

(b) Upon full payment of any loss obligation; or

(c) Upon written notice from the Lender to the Agency that the guarantee will terminate 30 days after the date of notice, provided that the Lender owns the entire guaranteed interest in the loan and the Loan Note Guarantee is returned to the Agency to be canceled.

§§ 4287.381–4287.399 [Reserved]

§ 4287.400 OMB control number.

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in the subsequent interim rule have been submitted to the Office of Management and Budget (OMB) under OMB Control Number 0570–0065 for approval. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Dated: June 12, 2015.

Lisa Mensah,

Under Secretary, Rural Development.

[FR Doc. 2015–14989 Filed 6–23–15; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9296 of June 19, 2015

Father's Day, 2015

By the President of the United States of America

A Proclamation

Being a dad is one of the most important jobs a man can have, and few things bring as much joy and pride as the blessing of fatherhood. Raising your children is an incredible privilege, but it is also a tremendous responsibility. It requires hard work, frequent struggle, and a commitment to always be there for your daughters and sons. Today, we celebrate the men who provide us unconditional love and support, and who teach us to lead lives of courage and character.

Fathers are some of our first role models and coaches in life. They inspire us to strive for what is possible—supporting us no matter what path we choose, encouraging us to reach higher, and always believing in us, even when we may not believe in ourselves. Through their example, they demonstrate that with self-discipline and dedication, we can achieve our highest aspirations, and they are there to cheer us on every step of the way.

Fatherhood demands sacrifice, and it is often difficult work—but being a dad does not require perfection. Our children do not expect us to be superheroes, but we do have an obligation to show up and be there for our kids. If we want our sons and daughters to work hard, fight for what is right, and earn their piece of the American dream, we must show them that we can overcome challenges with grit and determination, strive to do better every day, and throughout it all, never give up hope. It is in seemingly small acts and ordinary moments that our children learn big ideas and the most important lessons in life. Through a love shown and earned by being present, we teach our children what matters and pass on a spirit of empathy, compassion, and selflessness.

These are the lessons fathers—whether married or single; gay, straight, or transgender; biological, adoptive, or foster—can teach their kids, and across America responsible, committed dads are proving that their children are always their first priority. But if we want all our Nation's daughters and sons to have a fair shot at success in life—no matter who they are or where they are from—we need more fathers to step up and do the hard work of parenting. My Administration has fought to support men who want to be good fathers and to help create opportunities for parents to meet their obligations. And I have also called on men to make this kind of commitment not just to their own families, but to the many young people who do not have responsible adults in their lives. We need devoted, compassionate men to serve as mentors, tutors, big brothers, and foster parents. To learn more about how you can make a lasting impact on a child's life, visit www.WhiteHouse.gov/MyBrothersKeeper or www.Fatherhood.gov.

On Father's Day, we honor the men who made us who we are. They are examples of success and the ones who constantly push us toward it. And where our own fathers fell short, we have an obligation to rise up and do better than they did with our own children, because if we want our kids to meet the expectations we set for them, we must set high expectations for ourselves. Today, let us reflect on all our fathers have given us and show them the appreciation and gratitude they deserve.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972, as amended (36 U.S.C. 109), do hereby proclaim June 21, 2015, as Father's Day. I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on this day, and I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of June, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–15698
Filed 6–23–15; 11:15 am]
Billing code 3295–F5

Presidential Documents

Notice of June 22, 2015

Continuation of the National Emergency With Respect to North Korea

On June 26, 2008, by Executive Order 13466, the President declared a national emergency with respect to North Korea pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula. The President also found that it was necessary to maintain certain restrictions with respect to North Korea that would otherwise have been lifted pursuant to Proclamation 8271 of June 26, 2008, which terminated the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1–44) with respect to North Korea.

On August 30, 2010, I signed Executive Order 13551, which expanded the scope of the national emergency declared in Executive Order 13466 to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the continued actions and policies of the Government of North Korea, manifested by its unprovoked attack that resulted in the sinking of the Republic of Korea Navy ship *Cheonan* and the deaths of 46 sailors in March 2010; its announced test of a nuclear device and its missile launches in 2009; its actions in violation of United Nations Security Council Resolutions 1718 and 1874, including the procurement of luxury goods; and its illicit and deceptive activities in international markets through which it obtains financial and other support, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking, which destabilize the Korean Peninsula and imperil U.S. Armed Forces, allies, and trading partners in the region.

On April 18, 2011, I signed Executive Order 13570 to take additional steps to address the national emergency declared in Executive Order 13466 and expanded in Executive Order 13551 that will ensure the implementation of the import restrictions contained in United Nations Security Council Resolutions 1718 and 1874 and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

On January 2, 2015, I signed Executive Order 13687 to take further steps with respect to the national emergency declared in Executive Order 13466, as expanded in Executive Order 13551, and addressed further in Executive Order 13570, to address the threat to the national security, foreign policy, and economy of the United States constituted by the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its destructive, coercive cyber-related actions during November and December 2014, actions in violation of United Nations Security Council Resolutions 1718, 1874, 2087, and 2094, and commission of serious human rights abuses.

The existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula and the actions and policies of the Government of North Korea continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13466, expanded in scope in Executive Order 13551, addressed further in Executive

Order 13570, and further expanded in scope in Executive Order 13687, and the measures taken to deal with that national emergency, must continue in effect beyond June 26, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to North Korea declared in Executive Order 13466.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 22, 2015.

[FR Doc. 2015–15701
Filed 6–23–15; 11:15 am]
Billing code 3295–F5

Presidential Documents

Notice of June 22, 2015

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, relating to Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003, to take additional steps with respect to acts obstructing implementation of the Ohrid Framework Agreement relating to Macedonia.

The actions of persons threatening the peace and international stabilization efforts in the Western Balkans continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans declared in Executive Order 13219.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,

June 22, 2015.

[FR Doc. 2015–15707

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